

SUPPLEMENT

TO THE

American Journal of International Law

VOLUME 7

1913

OFFICIAL DOCUMENTS

PUBLISHED FOR
THE AMERICAN SOCIETY OF INTERNATIONAL LAW
BY
BAKER, VOORHIS & COMPANY
NEW YORK, U. S. A.

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THE AMERICAN SOCIETY OF INTERNATIONAL LAW

OFFICIAL DOCUMENTS

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OFFICIAL DOCUMENTS

CONSULAR CONVENTION BETWEEN AUSTRIA-HUNGARY AND SERVIA¹

*Signed at Belgrade, March 17/30, 1911; ratifications exchanged
January 23, 1912*

His Majesty the Emperor of Austria, King of Bohemia, etc., and
Apostolic King of Hungary, and

His Majesty the King of Servia, animated by the desire to reach an understanding regarding the admission of consular officers within their respective territories, and to determine their rights, privileges and immunities, as well as the functions which they are to perform, have decided to conclude a convention to that effect and have named as their plenipotentiaries, to wit:

His Majesty the Emperor of Austria, King of Bohemia, etc., and
Apostolic King of Hungary:

Count Jean Forgách de Ghymes et Gács, his Privy Councilor, his
Envoy Extraordinary and Minister Plenipotentiary to the Royal Court
of Servia, Grand Cross of the Order of Francis Joseph, Knight of the
Order of Leopold and of the Order of the Iron Crown, third class, etc.;

Chevalier Othon de Lutterotti de Gazzolis et Langenthal, Ministerial
Counsellor in the Royal Austrian Ministry of Justice, etc.;

Mr. Gustave de Töry, Secretary of State in the Royal Hungarian
Ministry of Justice, Knight of the Order of Leopold, etc.; and

His Majesty the King of Servia:

Mr. M. G. Milovanovitch, his Minister of Foreign Affairs, Grand
Cross of the Order of St. Sava, Commander of the Star of Karageorge
and of the White Eagle, etc.;

Who, after having communicated to each other their full powers,
found in good and due form, have agreed upon the following articles:

ARTICLE 1

Each of the high contracting parties shall have the right to establish
consuls general, consuls, vice-consuls or consular agents in the cities and

¹Translated from the *Sbornik Ugarsko-Hrvatskih Zajednickih Zakona*, No. 1,
January 27, 1912.

commercial centers of the other party. They reserve unto themselves, however, the right to designate the localities where they may not find it convenient to admit consular functionaries; it is well understood that this reservation may not be applied to one of the parties without equally applying it to all other Powers.

ARTICLE 2

The consuls general, consuls and vice-consuls will be reciprocally admitted and recognized after having presented their credentials according to the rules and formalities observed in the respective countries. The necessary exequatur for the free exercise of their duties shall be furnished them free of expense and, upon the presentation of the exequatur, the superior authority in the place of their residence shall immediately take the necessary measures so that they may acquit themselves of the duties pertaining to their charge and be admitted to the enjoyment of the exemptions, prerogatives, immunities, privileges and honors belonging to them.

ARTICLE 3

The consuls general and consuls may appoint consular agents in the cities and localities of their consular district upon the approval by the Ministry of Foreign Affairs of the other contracting party.

These agents may be selected indiscriminately from among the citizens of the contracting parties as well as from among foreigners. They shall be provided with letters-patent furnished by the functionary who may have appointed them, and they shall perform their duties under the orders and responsibility of the latter.

They shall enjoy the privileges and exemptions stipulated by the present convention, but not the exemptions and immunities defined by Articles 4 and 6, paragraph 1.

ARTICLE 4

The consuls general, consuls and vice-consuls, who may be citizens and regular functionaries of the contracting party appointing them, shall be exempt from garrison quarters, taxes and military service, as well as from direct, personal, real estate or sumptuary taxes imposed by any authority of the respective countries, provided these exemptions are in no case more extensive than are enjoyed by the diplomatic representatives of the contracting parties.

In case these consuls should exercise a trade, or carry on an industry or a profession, they shall on this account be subject to the same taxes, charges and impositions as the rest of the population.

The prerogatives and exceptions mentioned under paragraph 1 of this article shall likewise be granted to the consular employes if they are citizens and effective employes of the contracting party appointing them.

It is understood that no consul or consular employe is to be exempt from the payment of imposts on real estate he might own, or on capital he might have invested in industrial or commercial enterprises in the country where he resides.

The consuls general, consuls and vice-consuls as well as employes referred to in paragraph 3 of this article shall be authorized, upon moving to the territory of the other contracting party, to enter, without the payment of customs dues, their furniture and household effects that they may already have used. This stipulation does not apply to articles for consumption.

ARTICLE 5

Consular functionaries (see Art. 1), if they are citizens and regular functionaries of the contracting party appointing them, and also the employes mentioned under paragraph 3 of Article 4, provided these functionaries and employes do not engage in any trade or exercise any industry or profession, shall not be compelled to appear as witnesses before the courts of the country where they reside.

When the local courts are to receive any deposition from them, the said courts must go to their domicile or chancellery, or delegate for that purpose a functionary competent, after having heard their oral declarations, to draw up the proper *procès-verbal*, or else request from them a written declaration.

The said functionaries and consular employes are obliged to comply without any unjustifiable delay with the wishes of the authorities within the period or on the day and hour specified by the latter.

ARTICLE 6

The consuls general, consuls and vice-consuls, if they are citizens and regular functionaries of the contracting party naming them, and the employes mentioned under paragraph 3 of Article 4, shall enjoy personal immunity and can neither be arrested nor imprisoned, unless it is on account of a violation of the law, which, according to the laws

of the country where it was committed, is subject to a penalty of imprisonment for one year or more.

ARTICLE 7

Consular functionaries may place on the front of the building where the consular chancellery is located, their official coat of arms with an inscription indicating their official position.

On days of public solemnity, as well as on other customary occasions, they may hoist the official flag over the house where the chancellery is, unless they reside in the same city with the diplomatic mission of the contracting party appointing them. Likewise, they may hoist their official flag over vessels they might board in the exercise of their functions.

It is understood that these external marks may never be interpreted as constituting a right of asylum.

ARTICLE 8

The consular archives shall at all times be inviolable, and the local authorities may not, under any pretext and in no case, examine or seize the papers composing these archives.

These papers must always be kept separated from the books or papers relating to the commerce or to the industry or to the profession exercised by the respective consular functionaries.

ARTICLE 9

In case of incapacity, absence or death of the consular functionaries, the employes associated with these functionaries who shall have been previously presented in their official capacity to the respective authorities, shall of right be admitted to exercise the functions inherent in the particular office. The local authorities may not interfere; on the contrary, they must offer all aid and assistance prescribed in favor of the respective officers by the present convention.

ARTICLE 10

In the exercise of their functions, the consular functionaries may address themselves to the competent local authority to enter protest against any violation of the treaties or conventions in force between the contracting parties, and to protect the rights and the interests of

their fellow-citizens residing in any part of their sphere of activity. If their protests are not acted upon, they may invoke the intervention of their diplomatic agent.

ARTICLE 11

The consular functionaries, as well as their chancellors and secretaries, shall have the right to receive in their chancelleries, at the domicile of the parties and on board the vessels of their country, any declarations which the captains, the crew and the passengers, or the merchants or any other citizens of their country may wish to make.

They shall likewise be authorized to receive:

(1) Testamentary dispositions of their fellow-citizens and any civil status act concerning them, to which it may be desired to give authentic form.

(2) All written and contractual acts entered into between the latter and other persons, citizens of the contracting party within whose territory they exercise their functions, as well as any contractual act concerning the latter only; provided, of course, that the above mentioned acts relate to property situated or to affairs to be executed within the territory of the contracting party appointing the said functionaries.

The declarations and certifications contained in the acts referred to above, which may have been authenticated by the said functionaries and bear their official seal, shall, within or without the courts of justice, within the territory of the contracting parties and as far as the laws of these parties permit, have the same force and effect as if these acts had been entered into before public officers of either of the contracting parties; provided that these acts are drawn up according to the forms required by the laws of the contracting parties appointing the consular functionaries and have afterward been subjected to all the formalities governing the matter in the country where the act is to be carried out. It is well understood that these acts are subject to the stamp and registration fees in the country where they are carried out, in accordance with the laws and usages of that country. In case any doubt should arise concerning the authenticity or the copy of a public act registered at the chancellery of a consular authority, comparison between the copy and the original may not be refused the interested party who may make such a request, and he may be present, if he thinks proper, when the comparison is made.

The consular functionaries may legalize any kind of documents

originating from the authorities or functionaries of their country and have translations of them made, while within the territory of the contracting party where they exercise their functions, and they shall have the same force and effect as if they had been made by the sworn interpreters of the country. In addition, they shall have the right to issue and to visé passports, bills of health, certificates declaring the origin of merchandise and other similar acts for the use of their fellow-citizens.

ARTICLE 12

Each of the contracting parties pledges itself to grant to the other in regard to establishing consular offices, as well as in all matters relating to the enjoyment of exemptions, prerogatives, immunities, privileges and honors, the treatment of the most favored nation.

Neither of the contracting parties may, however, invoke this treatment to demand in favor of its functionaries and consular employes exemptions, prerogatives, immunities, privileges and honors other or greater than those granted by itself to the functionaries and consular employes of the other party.

ARTICLE 13

Differences that might arise concerning the interpretation or the execution of the present convention or the consequences of the violation of any of its stipulations shall, when all available means for settling them by an amicable arrangement are exhausted, be settled by arbitration in accordance with the principles established in the convention for the pacific settlement of international disputes concluded at The Hague, October 18, 1907.

ARTICLE 14

The present convention shall become effective eight days after the exchange of ratifications and shall take the place of the consular convention dated May 6/April 24, 1881. It shall remain in force until December 31, 1917.

If, twelve months before the expiration of the said period, neither of the contracting parties shall have notified its intention to terminate this convention, it shall remain in force until after the expiration of one year from the day when either of the contracting parties denounces the same.

ARTICLE 15

The present convention shall be ratified, and the ratifications exchanged at Belgrade as soon as possible.

In faith of which the respective plenipotentiaries have signed it and affixed their seals thereto.

Done in duplicate original at Belgrade, March 17/30, 1911

(L. S.) Forgách, m. p.

(L. S.) Lutterotti, m. p.

(L. S.) Töry, m. p.

(L. S.) M. G. Milovanovitch, m. p.

CONVENTION BETWEEN AUSTRIA-HUNGARY AND SERVIA RELATING TO
SUCCESSIONS, GUARDIANSHIP, TRUSTEESHIP AND THE LEGALIZATION OF
DOCUMENTS ¹

*Signed at Belgrade, March 17/30, 1911; ratifications exchanged
January 23, 1912*

His Majesty the Emperor of Austria, King of Bohemia, etc., and
Apostolic King of Hungary, and

His Majesty the King of Servia, having deemed it useful to regulate
between Austria and Hungary, on the one part, and Servia on the other,
certain questions relating to successions, guardianship and trusteeship,
as well as to the legalization of documents and acts of civil condition,
have resolved to conclude a convention to that effect and have named
for that purpose as their plenipotentiaries, to wit:

His Majesty the Emperor of Austria, King of Bohemia, etc., and
Apostolic King of Hungary:

For Austria and for Hungary:

Count Jean Forgách de Ghymes et Gács, his Privy Councilor, his
Envoy Extraordinary and Minister Plenipotentiary to the Royal Court
of Servia, Grand-Cross of the Order of Francis Joseph, Knight of the
Order of Leopold and of the Order of the Iron Crown, third class, etc.;

¹Translated from the *Sbornik Ugarsko-Hrvatskih Zajednickih Zakona*, No. 2,
January 27, 1912.

For Austria: Chevalier Othon de Lutterotti de Gazzolis et Langenthal, Ministerial Counsellor in the Royal Austrian Ministry of Justice, etc.;

For Hungary: Mr. Gustave de Töry, Secretary of State in the Royal Hungarian Ministry of Justice, Knight of the Order of Leopold, etc.; and His Majesty the King of Servia:

Mr. M. G. Milovanovitch, his Minister of Foreign Affairs, Grand-Cross of the Order of St. Sava, Commander of the Star of Karageorge and of the White Eagle, etc.;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1

The citizens of one of the high contracting parties may devise by testament, bequest, donation or otherwise, all their property they might own within the territory of the other high contracting party.

They shall have the right to have their last will drawn up by the consular functionaries within whose jurisdiction they may reside.

ARTICLE 2

Succession to real property shall be governed by the laws of the country within which the property is situated, and jurisdiction of any claim or contestation regarding succession to real property shall belong exclusively to the tribunals of that land.

Successorial rights regarding inheritance of personal property left by a citizen of one of the contracting parties in the territory of the other, the distribution of the inheritance among the persons sharing in the succession, the procedure and jurisdiction to settle the succession, shall all be governed exclusively by the laws of the country of which the deceased was a citizen at the time of his death.

This principle shall apply invariably whether the deceased was established in or simply passing through the country where the personal inheritance is located, or whether he was not in that country at the time of his death, whether citizens of that country are to share in the succession, or whether, beside the personal succession, real property connected with the succession is also situated within the same territory.

By successorial rights are meant: legal succession, right to legal share, testamentary succession, inheritance contract, donation through death, bequest and acquisition by the state of a succession without a claimant.

If, under a definition other than those just enumerated, claims have, within the period prescribed by Article 4, § 4, been entered by citizens or inhabitants of the country where the succession is located, and before the local courts, jurisdiction thereof shall belong exclusively to these courts and be given effect, as well as the payment of the amounts claimed or the deposit of a bond for their redemption, in conformity with the laws of the country.

ARTICLE 3

In case of death of a citizen of one of the contracting parties within the territory of the other, the local authorities shall immediately and, at the latest, within twenty-four hours after knowledge of such death has reached them, make communication thereof to the consular authority nearest to the place where such death has taken place. The latter authority shall act in the same manner toward the local authorities when such knowledge shall have come to it first.

ARTICLE 4

As to personal successions left within the territory of one of the contracting parties by citizens of the other, the local authority, on the one part, and the consular authority within whose jurisdiction the deceased came, on the other part, shall have the right to proceed with the acts herein specified. The consular authority may proceed directly or by the intermediary of a delegate which it shall appoint under its own responsibility. The delegate must be provided with a document issued by the consular authority, bearing the seal of the said authority and stating his official character.

(1) *Affixing and Removing the Seals*

The consular authority may affix the seals, either officially, or upon the request of the parties interested, upon all effects, movables and papers of the deceased, by giving notice thereof to the competent local authority, which, in case the laws of the country impose such duty upon it, may be present and likewise affix its own seals. Whenever the local authority shall have had knowledge first of the death and if, in accordance with the laws of the country, it is obliged to affix the seals upon the property connected with the succession, it shall invite the consular authority to co-operate with it in the act.

In case the immediate affixing of the seals should appear to be ab-

solutely necessary, and this operation, by reason of the distance between the places or on other grounds, could not take place jointly, each of the two authorities shall have the right to affix the seals previously without the co-operation of the other.

The authority not co-operating in this act must be informed within twenty-four hours of the affixing of the seals, and shall be free afterward to put its own seal across the one already affixed.

Single seals shall be broken by the authority affixing it, in the presence of the other authority.

Double seals may be broken by mutual agreement only. Nevertheless, if notice has been given to the local authority by the consular authority or to the consular authority by the local authority, inviting it to be present at the breaking of the seals, single or double, and the authority to which the invitation is addressed does not appear at the appointed time, the other authority may then proceed alone with the said operation.

The notices and invitations specified in the present paragraph shall be given in writing, and a receipt be given therefor. Any invitation to be present at the affixing or at the breaking of the seals must be transmitted to the authority concerned at least twenty-four hours before the operation; the period shall, however, extend over three days in case the authority issuing the invitation should reside without the jurisdiction of the other authority.

(2) *Taking of Inventory*

After the breaking of the seals, the consular authority shall take an inventory of all the personal property, effects, bills and papers left by the deceased, and in the presence of the local authority, if after having been notified the latter should deem it its duty to be present at this act. The local authority may at the close of each session affix its signature to the *procès-verbaux* drawn up in its presence, without the power, however, by reason of its official intervention, to exact any rights of whatever nature.

(3) *Conservation of the Effects*

After an inventory shall have been made, in conformity with the stipulations of the preceding paragraph, of all the personal property composing the succession, the deeds, bonds, bills and papers of the deceased shall be left with or handed to the consular authority.

The latter authority may proceed to the sale at the highest bid of all

the personal property of the succession susceptible of deterioration or difficult to preserve. It shall, however, be obliged to notify the local authority, so that the sale may take place, under the conditions prescribed by the laws of the country. In case it should devolve upon the local authority to effect the sale, the latter should invite the consular authority to be present.

The consular authority shall hold in trust or deposit in a safe place the inventoried effects and valuables, the amount of bills paid, the revenues received, as well as the product of the sale of personal property if such a sale takes place. These deposits must be made jointly with the local authority invited to be present at the operations referred to above, if citizens or inhabitants of the country appear as parties interested in the succession either *ab intestate*, or as testamentary legatee.

If the assets of the succession do not suffice to satisfy the creditors, citizens or inhabitants of the country, all documents, effects or valuables belonging to this succession must then, upon the demand of the creditors and in conformity with the laws of the country, be transmitted either to the competent judicial authority, or to the judicial administrators, or to the assignees or administrators of the bankrupt, the consular authority being charged to represent its citizens, heirs or legatees, whether these are absent, minors or incompetent.

(4) *Administration and Settlement of the Estate*

The consular authority shall administer and settle the personal part of the estate.

The local authority may not intervene in this operation except, when, in accordance with the laws of the country, it is necessary to specify a period within which all claims arising from the succession must be presented. Within this period, which may not exceed one year from the day when the inventory shall have been established, the consular authority shall take only such conservatory measures as may not be to the detriment of the rights of the parties interested.

The consular authority shall, moreover, have the right to draw immediately upon the estate for paying the expenses of the last illness of the deceased, the wages of the servants, the rents, the legal and consular expenses, and others of like nature, and, if necessary, for the expenses of maintenance of the family of the deceased.

At the expiration of the period fixed by the local authority, and if, according to the rules of jurisdiction indicated in Article 2, there is no

contestation reserved to the decision of the tribunals of the country, the consular authority will then enter definitively into possession of the personal estate, in so far as this property may not be pledged as guaranty in favor of citizens or residents of the country, and dispose of it subsequently in accordance with the laws of the country of which the deceased was a citizen. In case there is a contestation reserved to the decision of the tribunals of the country, the consular authority will enter into definitive possession only after the pronouncement of the decision, or after the sum necessary to cover the amount of these claims shall have been fixed by the tribunal of the country and a proportionate guaranty shall have been furnished.

ARTICLE 5

In all matters arising from the opening, the administration and the settlement of the successions of the citizens of one of the contracting parties within the territory of the other, the respective consular functionaries shall of right represent the heirs and legatees who are absent and might not have appointed their representatives. They shall be officially recognized as their fully empowered agents and not be obliged to justify their mandate by a special title.

In consequence, they may appear before the authorities, either personally or by agents chosen from among the persons authorized thereto by the laws of the country, to safeguard in any matter relating to the succession, the interests of the heirs and legatees, by prosecuting their rights or by making answer to demands formulated against them.

It is, however, understood that the consular functionaries considered as the fully empowered agents of their fellow-citizens may never be prosecuted personally in regard to any matter concerning the succession.

ARTICLE 6

When a citizen of one of the contracting parties shall have left within the territory of the other an estate in any locality where there is no consular authority, the competent local authority, in conformity with the laws of the country, shall proceed with the inventory of the effects of the inheritance, shall take all conservatory measures and be obliged within the shortest possible time to give an accounting to the consular authority nearest to the place where the succession came into existence, of the result of these operations.

With regard to the property left by the deceased, the local authority

shall take all measures prescribed by the laws of the country, and the product of the succession shall be placed at the free disposal of the said consular authority within the shortest possible time after the expiration of the period specified in Article 4, § 4.

But from the moment the consular functionary nearest to the locality where the succession is opened shall appear personally or send his agent to the locality, the local authority which may have intervened must conform to the prescriptions of Article 4.

ARTICLE 7

The powers conferred upon the consular authority by the preceding articles shall not prevent the heirs, including the residuary legatees, from addressing themselves to the tribunals of the country where the succession opens, for the purpose of entering into possession of personal property left within the territory of one of the contracting parties by a citizen of the other.

Such a request shall, however, be acted upon favorably only if none of the heirs, including the residuary legatees, nor any other legatee duly notified, offers objection thereto.

This request shall in any case have to be presented before the expiration of the period fixed in conformity with § 4 of Article 4.

The quality and the rights of heir, residuary or legatary, must be recognized and judged according to the laws of the state to which the deceased belonged.

In the circumstances contemplated by the present article, the jurisdiction of the tribunals of the country where the succession occurs is, moreover, subordinated to the fact that the deceased had maintained his regular residence there.

ARTICLE 8

When a citizen of one of the contracting parties is interested in a succession occurring within the territory of the other and not coming within the provisions of Articles 2 and 7, the local authorities shall without delay give information of the succession to the nearest consular authority under whose jurisdiction the interested party comes.

ARTICLE 9

The citizens of one of the contracting parties shall be entitled to receive within the territory of the other, in the same manner as nationals, any

property accruing to them by way of donation, bequest, testament, inheritance contract or by succession *ab intestate*, and the said heirs, legatary or donatory, shall not be obliged to pay any succession or mutation taxes other nor higher than those which in similar cases might be imposed upon nationals themselves.

In case the succession should consist, in whole or in part, of real estate, and by reason of the treaties in force, the person to whom such property reverts should not be competent to receive the same, there shall be mutually granted to the interested parties a period of time, to be determined according to the circumstances of the special case, in order that the sale of such property may be effected in the most advantageous manner.

When this period has expired and no result been obtained, the tribunals shall proceed with the sale, at public auction, of the real estate in the interest of the rightful claimants referred to above.

ARTICLE 10

The valuables and effects belonging to the sailors or passengers, citizens of one of the contracting parties, deceased on board a vessel of the other party, shall be forwarded to the respective consular functionaries for transmission to the authority of the country of the deceased.

ARTICLE 11

If it becomes necessary to appoint a guardian or trustee for a citizen of one of the contracting parties maintaining his regular domicile within the territory of the other, the competent local authority shall establish the guardianship or the trusteeship, provided the competent national authority of the minor or of the incompetent person has not taken other measures in regard thereto.

The national authorities and the respective consular functionaries may establish the guardianship or the trusteeship of their citizens.

In case summary action must be resorted to, the consular functionaries shall avail themselves of the assistance of the local authority.

ARTICLE 12

No legalization of the documents drawn up by the legal authorities of the contracting parties, either in civil or criminal matters, shall be

required. These documents shall bear the seal of the legal authority drawing them up.

The legalization shall be considered regular, when the document shall have been provided with the signature and official seal of a judicial authority of the state where the functionary resides who has drawn up the document.

Acts drawn up under private seal and legalized by a legal authority shall not be subject to a subsequent legalization.

ARTICLE 13

The contracting parties agree to furnish to one another duly legalized copies of birth, marriage and death certificates, as well as of legitimation documents regarding children not born in wedlock, and relating to the citizens of the other contracting party.

The said copies of birth, marriage, death and legitimation certificates must bear all the essential facts entered into the registers, and, so far as possible, mention the legal domicile or the country of origin of the persons to whom they refer.

The drafting and transmission of the said copies shall be done free of expense and according to the customary manner of each country.

If, however, such copies are requested for the use of private persons, the drafting and transmission shall be without expense only in reference to persons whose indigence shall have been attested by the competent local authority.

ARTICLE 14

The diplomatic agents and the consular functionaries shall have the right to draw up birth and death certificates of the citizens of the contracting party appointing them, provided they are authorized thereto by the laws and ordinances of that same party.

The obligation imposed by the territorial laws of the interested parties to give notice of birth and death to the authorities of the country is not changed by the present stipulation.

ARTICLE 15

The diplomatic agents and consular functionaries of Austria-Hungary residing in Servia, provided they are authorized by the Hungarian laws, shall have the right in Servia to perform marriages between Hungarian

citizens and to draw up certificates in relation thereto in conformity with the prescriptions of the said laws and ordinances relating thereto.

This stipulation is not applicable whenever, in the marriages to be entered into in Servia, one of the parties to the marriage should be a Servian citizen.

The said diplomatic agents and consular functionaries shall be obliged to notify forthwith the authorities of the country of the marriages performed in accordance with the preceding dispositions.

ARTICLE 16

The present convention shall become effective eight days after the exchange of ratifications, and take the place of the convention dated May 6/April 24, 1881, relating to successions. It shall remain in force until December 31, 1917.

If, twelve months before the expiration of the said period, neither of the contracting parties shall have notified its intention to terminate this-convention, it shall remain in force until after the expiration of one year from the day when either of the contracting parties denounces the same.

ARTICLE 17

The present convention shall be ratified, and the ratifications exchanged at Belgrade as soon as possible.

In faith of which the respective plenipotentiaries have signed it and affixed their seals thereto.

Done in duplicate at Belgrade, March 17/30, 1911.

(L. S.) FORGÁCH, m. p.

(L. S.) LUTTEROTTI, m. p.

(L. S.) TÖRY, m. p.

(L. S.) M. G. MILOVANOVITCH, m. p.

EXTRADITION CONVENTION BETWEEN AUSTRIA-HUNGARY AND SERVIA¹

*Signed at Belgrade, March 17/30, 1911; ratifications exchanged
January 23, 1912*

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary, and His Majesty the King of Servia, having deemed it useful to regulate between Austria and Hungary on the one part, and Servia on the other part, the mutual extradition of criminals, have resolved to conclude a convention to that effect, and have named for that purpose as their plenipotentiaries, to wit:

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary:

For Austria and for Hungary:

Count Jean Forgách de Ghymes et Gács, his Privy Councilor, his Envoy Extraordinary and Minister Plenipotentiary to the Royal Court of Servia, Grand-Cross of the Order of Francis Joseph, Knight of the Order of Leopold and of the Order of the Iron Crown, third class, etc.;

For Austria: Chevalier Othon de Luttermann de Gazzolis et Langenthal, Ministerial Counsellor in the Royal Austrian Ministry of Justice, etc.;

For Hungary: Mr. Gustave de Töry, Secretary of State in the Royal Hungarian Ministry of Justice, Knight of the Order of Leopold, etc.; and His Majesty the King of Servia:

Mr. M. G. Milovanovitch, his Minister of Foreign Affairs, Grand-Cross of the Order of St. Sava, Commander of the Star of Karageorge and of the White Eagle, etc.;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1

The contracting parties pledge themselves mutually to surrender, with the single exception of their nationals, persons charged with or convicted by the judicial authorities of one of the contracting parties of any of the crimes or offences mentioned in Article 2 hereafter, who might be found within the territory of the other party.

¹Translated from the *Sbornik Ugarsko-Hrvatskih Zajednickih Zakona*, No. 4, January 27, 1912.

Extradition shall take place only in case of prosecution or conviction of a crime or offence committed outside the state of which extradition is requested when, in accordance with the laws of the demanding state and of the state requested, this crime or offence may be punished by imprisonment for one year or by a greater penalty, and when, in accordance with the laws of the state requested, the crime or offence is not to be punished in that state.

When the crime or offence on which the demand for extradition is founded shall have been committed in a third state, extradition shall take place if the laws of the demanding state and of the state requested authorize prosecutions for such crimes or offences committed abroad and when, according to the treaties between the said third state and the state requested, the surrender of the fugitive to the government of the state where the crime or offence was committed is not required.

ARTICLE 2

Extradition shall be granted for the following crimes or offences:

1. Manslaughter, assassination, poisoning, infanticide.
2. Abortion.
3. Willful bodily injury.
4. Receiving stolen goods, concealment or substitution of a child.
5. Exposing or abandonment of a child.
6. Kidnapping minors or women.
7. Attempts to interfere with the liberty of an individual.
8. Attempts against the inviolability of the domicile.
9. Rape and other attempts against modesty; attempts against morals, by exciting to and by facilitating or abetting in the debauching or the corruption of a person.
10. Bigamy.
11. Counterfeiting or falsification of public or private documents and the use of these documents; destruction, damaging or suppression of a document for the purpose of harming a third person; abuse of blank signature; destruction, removal or displacement of landmarks.
12. Base money, including counterfeiting and alteration of money, issuing and circulating counterfeit or altered money; receiving or introducing such money into the state with the intention of putting it into circulation; counterfeiting or falsification of banknotes, bonds or other notes and bills issued by the state or with the authorization of the state,

by corporations, societies or private parties; the issuing or putting into circulation of these banknotes, bonds or other counterfeit or altered notes and bills.

13. Counterfeiting or falsification of seals, stamps, postage-stamps and prints of the state or intended for a public service, the use and putting into circulation of such seals, stamps, postage-stamps and counterfeit or falsified prints, as well as the misuse of lawful seals, stamps, postage-stamps and prints of the state or intended for a public service.

14. False testimony in court, false declaration on the part of experts or interpreters, bribing of witnesses, experts or interpreters; libellous denunciation.

15. Perjury, subornation of perjury.

16. Embezzlement and extortion by public functionaries.

17. Corrupting of public functionaries, judges, jurors.

18. Theft and rapine.

19. Illegal compulsion.

20. Distortion and abuse of confidence.

21. Swindling, impostures of fraud.

22. Fraudulent bankruptcy and fraudulent acts to the prejudice of creditors.

23. Willful destruction or damaging of personal or real property, public or private.

24. Incendiarism; criminal use of explosive material.

25. Acts calculated to bring about inundations.

26. Attacks upon the safety of vessels or transportation on the railroads.

27. Criminal acts against public health.

28. Receiving articles obtained through theft, embezzlement, rapine or illegal compulsion.

29. Aid extended to a criminal guilty of any act specified in this article, for the purpose either to shield him from prosecution or to insure to him the profit accruing from his act; aid extended to the escape of a criminal under arrest.

30. Conspiracy to commit crimes or offences against personal security or against property.

Extradition shall also be granted in cases of attempt and participation in any of the foregoing crimes or offences when such attempt and participation is punishable by the laws of both contracting parties.

ARTICLE 3

Extradition shall not be granted on account of political offences or of acts connected with such offences.

The extradited party may in no case be prosecuted or punished for any political offence, committed prior to the extradition nor for any act connected with such an offence.

It is agreed that the state requested shall have the right to decide in each particular case whether the offence on account of which extradition is demanded, is of a political nature or act connected with such an offence.

An attempt, whether consummated or not, against the head of state, or against the members of his family, when such attempt comprises manslaughter, assassination or poisoning shall not be considered a political offence or act connected with such an offence.

ARTICLE 4

No person extradited in virtue of the present convention can be tried in the demanding state by an exceptional tribunal; under this denomination are included especially all civil or military tribunals established upon the proclamation of martial law.

ARTICLE 5

The demand for extradition must always be made through diplomatic channels.

ARTICLE 6

Extradition shall be granted upon presentation either of the sentence, of an indictment, a warrant of arrest or any other document of the same force as this warrant, indicating the nature and gravity of the crime charged as well as its category, and the text of the penal law in force in the demanding state applicable to the crime or offence in question and showing the penalty to which it leads.

In the case of crimes against property, the amount of the actual damage or the amount the criminal intended to perpetrate shall always be indicated.

These documents shall be the originals or copies legalized by the tribunal or by any other competent authority of the demanding country; they shall, as far as possible, be accompanied by a description of the person claimed or by other data that may be of service in establishing

his identity. In case there is doubt as to whether the act which is the object of the prosecution comes within the provisions of the present convention, information shall be requested from the government demanding and extradition granted only when the information furnished is of such a nature as to remove these doubts. It is agreed that, in order to prevent the possibility of escape, the government requested, as soon as the documents referred to above have been received, shall order the arrest of the accused, reserving to itself the right to decide upon the request for extradition. In case information shall have been requested concerning the extradition and not furnished within one month from the time when demand therefor is received from the government requesting it the individual under arrest may be set at liberty.

ARTICLE 7

Provisional arrest shall take place not only upon the production of one of the documents mentioned in Article 6, but, in case of urgency, upon any advice, forwarded by post or telegraph, stating that warrant of arrest has been issued, on the condition, however, that this advice be sent through diplomatic channels to the Ministry of Foreign Affairs of the country requested.

In case of extreme urgency, provisional arrest shall likewise be made upon the demand issuing from an authority of one of the contracting parties when addressed directly to an authority of the other party.

ARTICLE 8

The person arrested in accordance with the terms of the second paragraph of Article 7 shall be set free if, within the period of eight days from the day of the arrest, advice of the existence of a warrant of arrest, issued by a judicial authority, is not given. The liberation of the person under arrest shall in all cases take place if, within the period of one month from the day of the arrest, the government requested has not received through diplomatic channels one of the documents mentioned in Article 6.

ARTICLE 9

The articles possessed by the accused as the result of the crime or offence, or such as may have been found on his person, the tools and instruments used to commit the culpable action, as well as any other

article serving for purposes of conviction, will, if the competent authority so decides, be surrendered to the demanding government, even when a demand for extradition which has been granted could not be carried out in consequence of the death or the flight of the culprit.

This surrender shall also include all objects of the same nature which the prisoner might have concealed or stored in the country granting extradition but which are subsequently discovered.

Rights which third parties might have acquired in the articles in question are, however, reserved; these articles must be returned, free of cost, to the lawful claimants after the conclusion of the trial.

The state of which the surrender of these articles shall have been requested, may retain them provisionally, if they are deemed necessary for a criminal hearing.

ARTICLE 10

When the person claimed is under prosecution or in custody in the state requested for some crime or offence other than the one on which the demand for extradition is founded, his extradition may be postponed until after the prosecution is terminated, and, in case of condemnation, until after he shall have suffered the penalty or been released from the latter.

Nevertheless, if in accordance with the laws of the country demanding extradition, prescription or other material detriment of the prosecution might result from this postponement, his temporary surrender shall be granted unless special considerations are opposed to such a course, and provided the extradited party is returned as soon as the prosecution in the said country shall be terminated.

In case the person claimed should through extradition be prevented from fulfilling obligations contracted by him toward private parties, his extradition shall follow nevertheless, unless the latter plead their rights before a competent authority.

ARTICLE 11

The person extradited may neither be prosecuted nor punished in the country to which the extradition was granted, nor extradited to a third country, for any crime or offence committed prior to the extradition and not specified in the present convention, unless in the one and the other case he might have been at liberty to leave the said country one month after having been sentenced and, in case of condemnation, after

having suffered his penalty or been pardoned, or in case he had not again returned to it.

Nor may he be prosecuted or punished for a crime or offence specified in this convention and committed prior to the extradition, other than the one upon which extradition is founded, without the consent of the government which surrendered him, which may, if deemed expedient, demand the presentation of one of the documents mentioned in Article 6 of the present convention. The consent of that government shall also be required to permit of the extradition of the accused to a third country. But this consent shall not be necessary when the accused shall have demanded immediate sentence or subjection to his penalty, or when within the period specified above he shall not have left the country to which he was surrendered or later on returned thereto.

ARTICLE 12

Extradition shall not be granted:

(1) When the person whose extradition is demanded has already been condemned or prosecuted and acquitted in the country requested, for the crime or offence on which the demand is founded, provided that, in accordance with the laws of the state requested, it is not required to begin the criminal procedure *de novo*.

(2) When, in accordance with the laws of the state requested, prescription of the prosecution or of the penalty takes place with reference to the acts charged before the arrest of the accused or his summons to the hearing.

(3) When, in accordance with the laws of the state requested, the crime or offence on which the demand for extradition is based can be prosecuted only on the complaint or proposition of the party injured, unless it is established that the party injured had demanded the prosecution.

In like manner extradition shall not take place so long as the person claimed is prosecuted for the same offence in the country of which the extradition is demanded.

ARTICLE 13

If the person whose extradition is demanded by one of the contracting parties is also claimed by one or several other governments by reason of other infractions, he shall be surrendered to the government within whose

territory he committed the most serious one, and in case of parity of gravity, to the government whose demand is first received.

ARTICLE 14

If extradition of a fugitive occurs between one of the contracting parties and a third Power the transport of this person across the territory shall be granted by the other party, provided the individual does not by his nationality belong to it; and, of course, provided the action leading to extradition is included in Articles 1 and 2 of the present convention and does not come under the provisions of Articles 3 and 12.

So that, in conformity with the present article, transportation of a criminal may be granted, upon a request to that effect through diplomatic channels accompanied by the original or by an authenticated copy of one of the acts of procedure mentioned in Article 6.

As to the escort, the transportation shall be effected with the assistance of agents of the state authorizing the transit over its territory.

Likewise, and under the conditions specified, transportation — going and returning — shall be granted over the territory of one of the contracting parties, of a fugitive detained in a third country whom the other contracting party might deem it expedient to confront with the individual prosecuted.

ARTICLE 15

Whenever in a non-political criminal case the personal appearance of a witness is deemed necessary or desirable, the government of the state within whose territory this witness lives shall advise him to answer the summons, which shall be addressed to him to that effect on the part of the authorities of the demanding state.

The expenses incurred through the personal appearance of a witness shall in all cases be borne by the demanding state, and the invitation addressed to that effect through diplomatic channels shall state the sum which will be allowed the witness for traveling and sojourn expenses, and also the advance amount which the state requested may, on condition of reimbursement by the demanding state pay to the witness on account of the entire amount.

This advance payment shall be made to him as soon as he shall have declared his readiness to answer the summons.

No witness, to whatever nationality he may belong, who, summoned within the territory of one of the contracting parties, shall appear

voluntarily before the judges of the other party, may not there be prosecuted or detained on account of prior criminal acts or convictions, nor under the claim of complicity in the acts which are the cause of the trial in which he is to appear as witness.

ARTICLE 16

When in a non-political criminal case pending before the tribunals of one of the contracting parties, the confrontation of the accused with persons detained within the territory of other party, or the presentation of proof or other judicial documents, is deemed necessary, the request therefor shall be made through diplomatic channels and be complied with, provided no special considerations are opposed thereto. The parties detained and the documents shall, however, be returned as soon as possible.

ARTICLE 17

Whenever in a non-political criminal case, one of the contracting parties deems it necessary to hear witnesses within the territory of the other contracting party or to perform any other act of examination, letters rogatory, drawn up in conformity with the laws of the demanding country, shall be sent to that effect through diplomatic channels and complied with by observing the laws of the land within whose territory the hearing of the witnesses or the act of examination is to take place.

Nevertheless, letters rogatory tending either to a personal search, a domiciliary visit, the seizure of the person of the accused or of any incriminating documents can be complied with only for any one of the acts enumerated in Article 2 and under the reservation made in paragraph 2 of Article 9 above.

ARTICLE 18

If one of the contracting parties believes it is necessary that an act of the criminal procedure should be communicated to a person within the territory of the other party, this communication shall be addressed through diplomatic channels to the competent authority of the state requested, which shall, through the same channels, return the document certifying the remittance or giving the reasons opposed thereto. Decisions of condemnation rendered by the tribunals of one of the contracting parties against citizens of the other party shall not, however, be notified to the latter. The state requested assumes no responsibility in regard to the notification of judicial acts.

ARTICLE 19

The contracting parties mutually renounce any claim for the reimbursement of the expenses occasioned within their respective territories by reason of the detention and transportation of the accused or persons surrendered provisionally for purposes of confrontation, by reason of the surrender of the articles mentioned in Articles 9, 16 and 17, by reason of the hearing of witnesses or any other acts of examination and communication of judicial acts and decisions.

Expenses of transportation and subsistence through intermediate territories of individuals whose extradition or temporary surrender shall have been granted, shall be borne by the demanding government.

Expenses of transit across the territory of the other contracting party of an individual whose extradition or temporary surrender may be granted to the demanding government by a third Power, shall likewise be borne by the demanding government.

Expenses occasioned through the temporary surrender mentioned in Article 10, shall also be borne by the demanding state.

The demanding state shall likewise pay the compensation granted to experts whose assistance may have been deemed necessary in a criminal cause.

ARTICLE 20

The contracting parties pledge themselves to communicate to each other all decisions rendered by the tribunals of one of the contracting parties against the citizens of the other in punishable actions resulting in a condemnation of more than three months imprisonment. Such communication shall be effected by forwarding through diplomatic channels a copy of the definitive decision. The state having obtained the extradition of a fugitive shall make communication of the definitive result of the criminal prosecution.

ARTICLE 21

Letters rogatory in penal matters and annexes thereto, as well as the acts communicable in virtue of Articles 6 and 18, shall be accompanied for Austria by a German or French translation, for Hungary by a Hungarian or French translation, for Servia by a Servian, French or German translation, whenever the said documents are not drawn up in one of these languages or in the language of the tribunal requested; these translations shall be forwarded free of cost.

The answers to letters rogatory and the documents drawn up in execution of the letters rogatory, as well as the acts to be transmitted in virtue of Article 16, and the copies which must be communicated in conformity with Article 20, shall be accompanied by translations only upon the request of the demanding state and by payment of the expenses of translation.

Acts in penal matters forwarded by the authorities of the contracting parties shall be exempt from legalization. Such acts shall bear the seal of the judicial authority issuing them.

ARTICLE 22

The present convention shall become effective eight days after the exchange of ratifications and take the place of the extradition convention dated April 24/May 6, 1881. It shall remain in force until December 31, 1917.

If, twelve months before the expiration of the said period, neither of the contracting parties shall have notified its intention to terminate this convention, it shall remain in force until after the expiration of one year from the day when either of the contracting parties denounces the same.

ARTICLE 23

The present convention shall be ratified, and the ratifications exchanged at Belgrade as soon as possible.

In faith of which the respective plenipotentiaries have signed it and affixed their seals thereto.

Done in duplicate original at Belgrade, March 17/30, 1911.

(L. S.) FORGÁCH, m. p.

(L. S.) LUTTEROTTI, m. p.

(L. S.) TÖRY, m. p.

(L. S.) M. G. MILOVANOVITCH, m. p.

TREATY OF COMMERCE BETWEEN THE UNITED KINGDOM AND THE
REPUBLIC OF BOLIVIA¹

Signed at La Paz, August 1, 1911; ratifications exchanged, July 5, 1912

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Excellency the President of the Republic of Bolivia, being desirous to extend and facilitate the relations already existing between the two countries, have determined to conclude a treaty with this object, and have appointed as their plenipotentiaries, that is to say:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India: Cecil William Gustaf Gosling, Esquire, His Majesty's Envoy Extraordinary, Minister Plenipotentiary, and Consul General to the Republic of Bolivia;

His Excellency the President of the Republic of Bolivia: Doctor Claudio Pinilla, Member of the Permanent Tribunal of Arbitration at The Hague, Minister for Foreign Affairs;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1

There shall be between the dominions and possessions of the two high contracting parties reciprocal freedom of commerce. The subjects or citizens of each of the two parties shall have liberty freely to come to all places in the dominions and possessions of the other to which native subjects or citizens generally are or may be permitted to come, and shall enjoy respectively the same rights, privileges, liberties, favors, immunities and exemptions in matters of commerce as are or may be enjoyed by native subjects or citizens generally, without having to pay any tax or impost greater than those paid by the same, and they shall be subject to the laws and regulations in force.

ARTICLE 2

No other or higher duties or charges shall be imposed on the importation into the dominions and possessions of His Britannic Majesty of any

¹ Great Britain, Treaty Series, 1912, No. 17.

article the produce or manufacture of the Republic of Bolivia, from whatever place arriving, and no other or higher duties or charges shall be imposed on the importation into Bolivia of any article the produce or manufacture of His Britannic Majesty's dominions and possessions, from whatever place arriving, than on the like articles produced or manufactured in any other foreign country; nor shall any prohibition or restriction be maintained or imposed on the importation of any article the produce or manufacture of the dominions and possessions of either of the high contracting parties into the dominions and possessions of the other, from whatever place arriving, which shall not equally extend to the importation of the like articles being the produce or manufacture of any other foreign country.

This last provision is not applicable to the sanitary and other prohibitions occasioned by the necessity of securing the safety of persons or of cattle or of plants useful to agriculture.

ARTICLE 3

No other or higher duties or charges shall be imposed in the dominions and possessions of either of the high contracting parties on the exportation of any article to the dominions and possessions of the other, than such as are or may be payable on the exportation of the like article to any other foreign country; nor shall any prohibition be imposed on the exportation of any article from the dominions and possessions of either of the two high contracting parties to the dominions and possessions of the other, which shall not equally extend to the exportation of the like article to any other foreign country.

ARTICLE 4

The subjects or citizens of each of the high contracting parties shall enjoy, in the dominions and possessions of the other, perfect equality of treatment with the native subjects or citizens or subjects or citizens of the most favored nation in all that relates to exemption from transit duties, warehousing, bounties, facilities, and drawbacks.

ARTICLE 5

The high contracting parties agree that, in all matters relating to commerce and industry, any privilege, favor, or immunity whatever which either high contracting party has actually granted or may here-

after grant to any other foreign state shall be extended immediately and unconditionally to the subjects or citizens of the other contracting party; it being their intention that the commerce and industry of each country shall be placed, in all respects, by the other on the footing of the most favored nation.

ARTICLE 6

It shall be free to each of the high contracting parties to appoint consuls-general, consuls, vice-consuls, and consular agents to reside in the towns and ports of the dominions and possessions of the other. Such consuls-general, consuls, vice-consuls, and consular agents, however, shall not enter upon their functions until after they shall have been approved and admitted in the usual form by the government to which they are sent. They shall enjoy all the faculties, privileges, exemptions, and immunities of every kind which are or shall be granted to consuls of the most favored nation.

ARTICLE 7

The subjects or citizens of each of the high contracting parties who shall conform to the laws of the country —

1. Shall have full liberty, with their families, to enter, travel, or reside in any part of the dominions and possessions of the other high contracting party.
2. They shall be permitted to hire or possess the houses, manufactories, warehouses, shops, and premises which may be necessary for them.
3. They may carry on their commerce either in person or by any agents whom they may think fit to employ.
4. They shall not be subject in respect of their persons or property, or in respect of passports, or in respect of their commerce or industry, to any taxes, whether general or local, or to imposts or obligations of any kind whatever other or greater than those which are or may be imposed upon native subjects or citizens, or subjects or citizens of the most favored nation.

ARTICLE 8

British subjects in Bolivia and Bolivian citizens in the United Kingdom will be exempted from all service, both in the army and navy and in the national guard or militia, as well as from the obligation to accept judicial, administrative or political duties and positions.

Exception to the preceding rule is made in the case of municipal

functions, which they may discharge without loss of nationality (retaining therefore, in their entirety, the qualities and condition of foreigners), and of those which according to law may be imposed in regard to juries.

ARTICLE 9

The subjects and citizens of the high contracting parties will also be exempt from all extraordinary war contributions, from forced loans, and from all military requisitions or services whatsoever.

In all other cases their property whether personal or real, cannot be subjected to any other charges or impost than those which are or may be required of natives or of the subjects or citizens of the most favored nation.

ARTICLE 10

The high contracting parties agree that during the period of existence of this treaty they mutually abstain from diplomatic intervention in cases of claims or complaints on the part of private individuals affecting civil or criminal matters in respect of which legal remedies are provided.

They reserve however the right to exercise such intervention in any case in which there may be evidence of delay in legal or judicial proceedings, denial of justice, failure to give effect to a sentence obtained in his favor by one of their nationals or violation of the principles of international law.

ARTICLE 11

The subjects or citizens of each of the high contracting parties in the dominions and possessions of the other shall be at full liberty to exercise civil rights, and therefore to acquire, possess, and dispose of every description of property, movable and immovable. They may acquire and transmit the same to others whether by purchase, sale, donation, exchange, marriage, testament, succession *ab intestato*, and in any other manner, under the same conditions as national subjects or citizens. Their heirs may succeed to and take possession of it, either in person or by procurators, in the same legal forms and in the same manner as subjects or citizens of the country.

In none of these respects shall they pay upon the value of such property any other or higher impost, duty, or charge than is or shall be payable by subjects or citizens of the country. In every case the subjects or citizens of the high contracting parties shall be permitted to

export their property, or the proceeds thereof if sold, freely and without being subjected on such exportation to pay any duty different from that to which subjects or citizens of the country are or shall be liable under similar circumstances.

ARTICLE 12

The dwellings, manufactories, warehouses, and shops of the subjects or citizens of each of the high contracting parties in the dominions and possessions of the other, and all premises appertaining thereto destined for purposes of residence or commerce shall be respected.

It shall not be allowable to make a search of, or a domiciliary visit to, such dwellings and premises, or to examine or inspect books, papers, or accounts, except under the conditions and with the forms prescribed by the laws for subjects or citizens of the country, or of the most favored nation.

The subjects or citizens of each of the high contracting parties in the dominions and possessions of the other shall have free access to the courts of justice for the prosecution and defence of their rights, without other conditions, restrictions, or taxes beyond those imposed on native subjects or citizens; they shall enjoy the same treatment as native subjects or citizens in all that concerns deposits, sureties, and fees in legal cases and shall, in the same manner as native subjects or citizens, be at liberty to employ, in all causes, their advocates, attorneys, or agents from among the persons admitted to the exercise of those professions according to the laws of the country.

ARTICLE 13

The subjects or citizens of each of the high contracting parties shall have in the dominions and possessions of the other the same rights as native subjects or citizens in regard to patents for invention, trademarks, and designs, upon fulfillment of the formalities prescribed by law.

ARTICLE 14

The stipulations contained in this treaty shall not apply to cases in which the Government of the Republic of Bolivia may accord special favors, exemptions, and privileges to the citizens or products of contiguous states in the matters of commerce.

Such favors cannot be claimed on behalf of Great Britain on the ground

of most-favored-nation rights, as long as they are not conceded to any other nonconterminous state.

ARTICLE 15

The stipulations of the present treaty shall not be applicable to any of His Britannic Majesty's colonies or possessions beyond the seas unless notice to that effect shall have been given, on behalf of any such colony or possession, by His Britannic Majesty's representative in the Republic of Bolivia to the Bolivian Minister for Foreign Affairs, within one year from the date of the exchange of the ratifications of the present treaty.

Nevertheless, subject to the provisions of Article 14, the goods produced or manufactured in any of His Britannic Majesty's colonies, possessions, and protectorates shall enjoy in Bolivia complete and unconditional most-favored-nation treatment so long as such colony, possession, or protectorate shall accord to goods the produce or manufacture of Bolivia treatment as favorable as it gives to the produce or manufacture of any other foreign country.

ARTICLE 16

The present treaty shall come into effect ten days after the day upon which the ratifications are exchanged, and shall remain in force for ten years after such exchange. In case neither of the high contracting parties shall have given notice to the other twelve months before the expiration of the said period of ten years of the intention to terminate the present treaty, it shall remain in force until the expiration of one year from the day on which either of the high contracting parties shall have given such notice.

His Britannic Majesty's Government shall also have the right to terminate separately the present treaty at any time on giving twelve months' notice to that effect, on behalf of any British colony, possession, or dependency, as specified in Article 15, which may have acceded thereto.

It is understood that the provisions of the present and of the preceding articles, referring to British colonies, possessions or protectorates apply also to the Island of Cyprus.

ARTICLE 17

The present treaty shall be ratified, and the ratifications shall be exchanged at London, within the period of one year from the date of signature.

Done in duplicate, in English and Spanish, this first day of August in the year one thousand nine hundred and eleven.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereto their seals.

(L. S.) CECIL GOSLING.

(L. S.) CLAUDIO PINILLA.

CONVENTIONS ADOPTED BY THE FOURTH CENTRAL AMERICAN CONFERENCE. MANAGUA, JANUARY 1-11, 1912¹

Convention regarding the annual reports to the next Central American Conferences

The Governments of the Republics of El Salvador, Costa Rica, Nicaragua, Guatemala and Honduras, through their respective delegates to the Fourth Central American Conference, which met in Managua on the first day of January of the present year, to wit:

For Salvador, Dr. Cayetano Ochoa; for Costa Rica, Dr. Manuel Echeverría y Aguilar; for Nicaragua, Dr. Máximo H. Lepeda; for Guatemala, Licenciado Manuel García Girón; for Honduras, Licenciado Saturnino Medel,

Desiring that the conferences to be held in the future shall be accurately informed in regard to the matters considered in previous conferences, as well as of the condition of each case, so as to have a better understanding of the same, have agreed to conclude a convention to this end, under the following stipulations:

1st. The governments of the five republics agree to submit, through their delegates, to the Central American Conferences to be held in the future, a detailed report containing the following matters:

(a) The decrees issued by the executive in regard to the treaties concluded by the annual conferences.

¹ *Boletín del Ministerio de Relaciones de the Republic of Salvador*, Vol. IV, No. IV, pp. 245-249.

(b) On what dates said conventions have been considered and approved or rejected by the assembly, and when those which have been approved are to become effective, or if they are to be put in force subject to some alteration.

(c) If the reports should state that the executive has not submitted some treaty to the consideration of the assembly, or that the National Representative has not approved the same (said reports shall contain), a statement of the reasons for the first case or the objections for the second, so that the conference may consider the one or the other.

2nd. Each one of the contracting parties shall notify all the others of the ratification of the present convention by the legislative power, said notice to be considered as the exchange of the ratifications.

Signed in the City of Managua, on the fifth day of January, nineteen hundred and twelve.

(Signed) CAYETANO OCHOA.

(Signed) MANUEL ECHEVERRIA.

(Signed) MÁXIMO H. LEPEDA.

(Signed) MANUEL MA. GIRÓN.

(Signed) SATURNINO MEDAL.

Convention to regulate the unified Central American Consular Service

The Governments of Salvador, Costa Rica, Nicaragua, Guatemala and Honduras, taking into consideration that through previous conventions they have resolved to unify their consular representation, and that in order to give more effectiveness to the ends sought by those conventions there is absolute need to regulate said service, they have found it convenient to conclude a convention to that end, and for this purpose have appointed as delegates:

Salvador, Dr. Cayetano Ochoa; Costa Rica, Dr. Manuel Echeverría y Aguilar; Nicaragua, Dr. Máximo H. Lepeda; Guatemala, Licenciado Manuel María Girón; Honduras, Licenciado Saturnino Medal.

Who, after having communicated their respective full powers, found in due form, have agreed as follows:

ARTICLE I

The Central American International Bureau is hereby requested to prepare a regulation for the Central American Consular Service, specifying the consulates to be unified and fixing the salaries therefor according to their importance.

ARTICLE II

Said regulation shall contain a detailed statement of the qualifications which those persons appointed as consuls must have, as well as their duties and powers, and whatever may tend, through them, to promote the development and growth of Central American interests abroad.

ARTICLE III

Provision shall likewise be made with reference to any powers which it may be found convenient to grant to the consuls in order to encourage immigration in any republic desiring the same.

ARTICLE IV

For the preparation of said regulation, the Bureau shall gather all the data and instructions which the chancelleries of the five republics may furnish to that end; and, as soon as finished, a copy of the same shall be sent to each one of the governments for their approval thereof.

ARTICLE V

This convention shall in no way be an obstacle to compliance with the provisions contained in the previous conventions in regard to this matter.

ARTICLE VI

Each one of the contracting parties shall notify all the others as soon as its legislative body ratifies the present convention, said notice to take the place of the exchange of ratifications.

Signed in the city of Managua in five identical originals, on the fifth day of January, nineteen hundred and twelve.

(Signed) CAYETANO OCHOA.

(Signed) MANUEL ECHEVERRIA.

(Signed) MÁXIMO H. LEPEDA.

(Signed) MANUEL M. GIRÓN.

(Signed) SATURNINO MEDAL.

Convention for the improvement and safety of the telegraphic service between the five Republics of Central America

The Governments of Salvador, Costa Rica, Nicaragua, Guatemala, and Honduras, in order to improve the existing telegraphic service between the five republics, as they consider this reform of vital importance to them, have deemed it convenient to conclude a convention to that end, and for this purpose have appointed as their delegates:

Salvador, Dr. Cayetano Ochoa; Costa Rica, Dr. Manuel Echeverría y Aguilar; Nicaragua, Dr. Máximo H. Lepeda; Guatemala, Licenciado Manuel María Girón; and Honduras, Licenciado Saturnino Meda,

Who, finding their respective powers in due form, have agreed as follows:

1st. Each of the states shall establish on its own account a modern system of wireless telegraphy, placing in the Pacific and Atlantic ports and in each of the capitals of the Central American Republics, wireless stations of sufficient reach so as to be able to communicate with each other either directly or through intermediate stations.

2nd. It is provided that technical studies shall be undertaken by the telegraph directors of the five republics in order to reform the present telegraphic lines so that each country shall communicate with the adjoining one through the shortest and safest way. Said study shall be finished three months after the present convention is approved by the respective governments; and the corresponding works shall be started immediately so that the lines may be in operation as soon as possible.

This shorter way shall, in due time, be used to establish telephone lines to connect the five republics with each other.

3rd. It is agreed that the telegraphic administrative bureau of the five states shall exchange their respective regulations and orders, so that each of them may adopt and put in practice the important improvements which may be found therein.

4th. Each one of the contracting parties shall notify all the others as soon as its legislative body ratifies the present convention, said notice to take the place of the exchange of ratifications.

Signed in Managua, on the ninth day of January, nineteen hundred and twelve.

(Signed) CAYETANO OCHOA.

(Signed) MANUEL ECHEVERRÍA.

(Signed) MÁXIMO H. LEPEDA.

(Signed) MANUEL M. GIRÓN.

(Signed) SATURNINO MEDA.

Convention to establish a postal and telegraphic money order service in Central America

The Governments of Salvador, Costa Rica, Nicaragua, Guatemala and Honduras, desiring to further by all means possible transactions tending to protect the commercial interests of the five Central American

Republics, and being convinced of the great usefulness which postal and telegraphic money orders shall lend to that purpose, have agreed to conclude a convention in order to establish such an important service, and to this end have appointed as their delegates:

Salvador, Dr. Cayetano Ochoa; Costa Rica, Dr. Manuel Echeverría y Aguilar; Nicaragua, Dr. Máximo H. Lepeda; Guatemala, Licenciado Manuel María Girón; and Honduras, Licenciado Saturnino Medal,

Who, having found their respective powers in due form, have agreed as follows:

1st. The postal and telegraphic money order service is hereby established between the five republics.

2nd. Said service shall be under the control and security of the respective governments.

3rd. The Central American International Bureau is requested to draw up the corresponding regulations, in conformity with the conventions established by the Universal Postal Union and with the corresponding telegraphic regulations in force, and by agreement with the governments; to be in force as soon as the present convention becomes law.

4th. Each of the contracting parties shall notify all the others as soon as its legislative body ratifies the present convention, said notice to take the place of the exchange of ratifications.

Signed in Managua, on the tenth day of January, nineteen hundred and twelve.

(Signed) CAYETANO OCHOA.

(Signed) MANUEL ECHEVERRÍA.

(Signed) MÁXIMO H. LEPEDA.

(Signed) MANUEL MARÍA GIRÓN.

(Signed) SATURNINO MEDAL.

Convention for the improvement of maritime communications in Central America

The Governments of Salvador, Costa Rica, Nicaragua, Guatemala, and Honduras, being convinced that the facilities of communication between the five republics will be a source of mutual advantage to all of them and will effectively contribute to their political union, in order to carry out such an important purpose have appointed as their delegates:

Salvador, Dr. Cayetano Ochoa; Costa Rica, Dr. Manuel Echeverría y Aguilar; Nicaragua, Dr. Máximo H. Lepeda; Guatemala, Licenciado Manuel María Girón; and Honduras, Licenciado Saturnino Medal.

The delegates, having met at the presidential house, and after having communicated their respective full powers, found in due form, have agreed as follows:

1st. The contracting parties bind themselves to secure the establishment of a fast, regular and comfortable maritime communication between their ports in each of the two oceans, preferably with national vessels and, in lieu thereof, by contract with corporations, companies or private individuals.

2nd. As soon as this convention is ratified, each of the governments of Central America shall appoint a commission which shall undertake the necessary studies and gather all the information and data which it might deem useful to the attainment of said purpose.

3rd. These same governments shall likewise appoint commissions which are to meet in the city of San Salvador six months after the last ratification of this convention has been notified; and said commissioners, in view of the studies and information referred to in the preceding clause, shall decide, by common agreement and in detail, the best means to comply with what has been stipulated.

4th. Each of the contracting parties shall notify all the others as soon as its legislative body ratifies the present convention, said notice to take the place of the exchange of ratifications.

Signed in the city of Managua, on the tenth day of January, nineteen hundred and twelve.

(Signed) CAYETANO OCHOA.

(Signed) MANUEL ECHEVERRIA.

(Signed) MÁXIMO H. LEPEDA.

(Signed) MANUEL MARIA GIRÓN.

(Signed) SATURNINO MEDAL.

Convention to establish international railway communications in Central America

The Governments of Salvador, Costa Rica, Nicaragua, Guatemala, and Honduras, fully realizing that the facilities of railway communication will be a source of advantage to all of them and will effectively contribute to their political union, in order to carry out such an important purpose, have appointed as their delegates:

Salvador, Dr. Cayetano Ochoa; Costa Rica, Dr. Manuel Echeverria y Aguilar; Nicaragua, Dr. Máximo H. Lepeda; Guatemala, Licenciado Manuel Maria Girón; and Honduras, Licenciado Saturnino Medal.

The delegates having met at the presidential house, and after communicating their respective full powers, found in due form, have agreed as follows:

1st. Each of the signatory states binds itself to establish communications between its territory with that of the adjoining states, either directly through a railway system, or by making use of the Fonseca Gulf and the navigable lakes and rivers, to which end it shall construct new lines or extend those already existing.

2nd. The place or places in the respective boundaries where the junction of the communicatory lines between the different republics is to be established, shall be decided upon by agreement between the two interested states.

3rd. The works to which the preceding clause refers may be carried out by the governments, or through corporations, companies, or private individuals, and must begin at the latest two years after this convention is approved by the five states. In the meantime, the governments are advised to connect their territories through wide and well constructed roads.

4th. Each of the contracting parties shall notify all the others as soon as its legislative body ratifies the present convention, said notice to take the place of the exchange of ratifications.

Signed in Managua, on the tenth day of January, nineteen hundred and twelve.

(Signed) CAYETANO OCHOA.

(Signed) MANUEL ECHEVERRIA.

(Signed) MÁXIMO H. LEPEDA.

(Signed) MANUEL M. GIRÓN.

As a recommendation:

(Signed) SATURNINO MEDAL.

Convention for the establishment of commissions of Central American relations

The Governments of Salvador, Costa Rica, Nicaragua, Guatemala and Honduras, wishing to better insure compliance with the conventions signed in the Central American Conferences and the accomplishment of the ends sought by the latter, have decided to conclude a convention to this effect and have appointed as delegates:

Salvador, Dr. Cayetano Ochoa; Costa Rica, Dr. Manuel Echeverria y Aguilar; Nicaragua, Dr. Máximo H. Lepeda; Guatemala, Licenciado Manuel Maria Girón; Honduras, Licenciado Saturnino Medal;

Who, after having communicated their respective full powers, found in good form, have agreed as follows:

1st. Each of the signatory states shall appoint a commission subordinate to the Ministry of Foreign Relations, which shall:

(a) Undertake to secure the approval of the resolutions adopted by the Central American Conferences.

(b) Furnish the Central American International Bureau and the commissions of the other states with all data which they might need for the preparation of their work.

(c) Exercise all other powers which the respective governments might deem it convenient to grant them.

2nd. In those states wherein the commissions, the establishment of which was recommended by the Third International American Conference by its resolution of August 13, 1906, are already organized or should in the future be organized, the respective governments may grant to said commissions the powers referred to in the present convention.

3rd. Each of the contracting parties shall notify all the others as soon as its legislative body ratifies the present convention, said notice to take the place of the exchange of ratifications.

Signed in Managua, on the eleventh day of January, nineteen hundred and twelve.

(Signed) CAYETANO OCHOA.

(Signed) MANUEL ECHEVERRIA.

(Signed) MÁXIMO H. LEPEDA.

(Signed) MANUEL MA. GIRÓN.

(Signed) SATURNINO MEDAL.

AGREEMENT BETWEEN THE UNITED STATES AND GREAT BRITAIN ADOPTING
WITH CERTAIN MODIFICATIONS THE RULES AND METHOD OF PROCEDURE
RECOMMENDED IN THE AWARD OF SEPTEMBER 7, 1910, OF THE NORTH
ATLANTIC COAST FISHERIES ARBITRATION ¹

*Signed at Washington, July 20, 1912; ratifications exchanged November 15,
1912*

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, being desirous of concluding

¹ U. S. Treaty Series, No. 572.

an agreement regarding the exercise of the liberties referred to in Article I of the Treaty of October 20, 1818, have for this purpose named as their plenipotentiaries:

The President of the United States of America:

Chandler P. Anderson, Counselor for the Department of State of the United States;

His Britannic Majesty:

Alfred Mitchell Innes, Chargé d'Affaires of His Majesty's Embassy at Washington;

Who, having communicated to each other their respective full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE I

Whereas the award of the Hague Tribunal of September 7, 1910, recommended for the consideration of the parties certain rules and a method of procedure under which all questions which may arise in the future regarding the exercise of the liberties referred to in Article I of the Treaty of October 20, 1818, may be determined in accordance with the principles laid down in the award, and the parties having agreed to make certain modifications therein, the rules and method of procedure so modified are hereby accepted by the parties in the following form:

1. All future municipal laws, ordinances, or rules for the regulation of the fisheries by Great Britain, Canada, or Newfoundland in respect of (1) the hours, days, or seasons when fish may be taken on the treaty coasts; (2) the method, means, and implements used in the taking of fish or in carrying on fishing operations; (3) any other regulations of a similar character; and all alterations or amendments of such laws, ordinances, or rules shall be promulgated and come into operation within the first fifteen days of November in each year; provided, however, in so far as any such law, ordinance, or rule shall apply to a fishery conducted between the 1st day of November and the 1st day of February, the same shall be promulgated at least six months before the 1st day of November in each year.

Such laws, ordinances, or rules by Great Britain shall be promulgated by publication in the London Gazette, by Canada in the Canada Gazette, and by Newfoundland in the Newfoundland Gazette.

After the expiration of ten years from the date of this agreement, and so on at intervals of ten years thereafter, either party may propose to

the other that the dates fixed for promulgation be revised in consequence of the varying conditions due to changes in the habits of the fish or other natural causes; and if there shall be a difference of opinion as to whether the conditions have so varied as to render a revision desirable, such difference shall be referred for decision to a commission possessing expert knowledge, such as the Permanent Mixed Fishery Commission hereinafter mentioned.

2. If the Government of the United States considers any such laws or regulations inconsistent with the Treaty of 1818, it is entitled so to notify the Government of Great Britain within forty-five days after the publication above referred to, and may require that the same be submitted to and their reasonableness, within the meaning of the award, be determined by the Permanent Mixed Fishery Commission constituted as hereinafter provided.

3. Any law or regulation not so notified within the said period of forty-five days, or which, having been so notified, has been declared reasonable and consistent with the Treaty of 1818 (as interpreted by the said award) by the Permanent Mixed Fishery Commission, shall be held to be reasonable within the meaning of the award; but if declared by the said commission to be unreasonable and inconsistent with the Treaty of 1818, it shall not be applicable to the inhabitants of the United States exercising their fishing liberties under the Treaty of 1818.

4. Permanent Mixed Fishery Commissions for Canada and Newfoundland, respectively, shall be established for the decision of such questions as to the reasonableness of future regulations, as contemplated by Article IV of the special agreement of January 27, 1909. These commissions shall consist of an expert national, appointed by each party for five years; the third member shall not be a national of either party. He shall be nominated for five years by agreement of the parties, or, failing such agreement, within two months from the date, when either of the parties to this agreement shall call upon the other to agree upon such third member. he shall be nominated by Her Majesty the Queen of the Netherlands.

5. The two national members shall be summoned by the Government of Great Britain, and shall convene within thirty days from the date of notification by the Government of the United States. These two members having failed to agree on any or all of the questions submitted within thirty days after they have convened, or having before the expiration of that period notified the Government of Great Britain that

they are unable to agree, the full commission, under the presidency of the umpire, is to be summoned by the Government of Great Britain, and shall convene within thirty days thereafter to decide all questions upon which the two national members had disagreed. The commission must deliver its decision, if the two governments do not agree otherwise, within forty-five days after it has convened. The umpire shall conduct the procedure in accordance with that provided in Chapter IV of the Convention for the Pacific Settlement of International Disputes, of October 18, 1907, except in so far as herein otherwise provided.

6. The form of convocation of the commission, including the terms of reference of the question at issue, shall be as follows:

"The provision hereinafter fully set forth of an act dated published in the Gazette, has been notified to the Government of Great Britain by the Government of the United States under date of , as provided by the agreement entered into on July 20, 1912, pursuant to the award of the Hague Tribunal of September 7, 1910.

"Pursuant to the provisions of that agreement the Government of Great Britain hereby summons the Permanent Mixed Fishery Commission for

(Canada)
(Newfoundland) composed of.....Commissioner for the United
States of America, and of.....Commissioner for (Canada)
(Newfoundland)

who shall meet at Halifax, Nova Scotia, with power to hold subsequent meetings at such other place or places as they may determine, and render a decision within thirty days as to whether the provision so notified is reasonable and consistent with the Treaty of 1818, as interpreted by the award of the Hague Tribunal of September 7, 1910, and if not, in what respect it is unreasonable and inconsistent therewith.

"Failing an agreement on this question within thirty days, the commission shall so notify the Government of Great Britain in order that the further action required by that award shall be taken for the decision of the above question.

"The provision is as follows....."

7. The unanimous decision of the two national commissioners, or the majority decision of the umpire and one commissioner, shall be final and binding.

8. Any difference in regard to the regulations specified in Protocol XXX of the arbitration proceedings, which shall not have been disposed of by diplomatic methods, shall be referred not to the commission of expert specialists mentioned in the award but to the Permanent Mixed Fishery Commissions, to be constituted as hereinbefore provided, in the same manner as a difference in regard to future regulations would be so referred.

ARTICLE II

And whereas the Tribunal of Arbitration in its award decided that —

In case of bays the 3 marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. At all other places the 3 marine miles are to be measured following the sinuosities of the coast.

And whereas the Tribunal made certain recommendations for the determination of the limits of the bays enumerated in the award;

Now, therefore, it is agreed that the recommendations, in so far as the same relate to bays contiguous to the territory of the Dominion of Canada, to which Question V of the special agreement is applicable, are hereby adopted, to wit:

In every bay not hereinafter specifically provided for, the limits of exclusion shall be drawn three miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed ten miles.

For the Baie des Chaleurs the limits of exclusion shall be drawn from the line from the Light at Birch Point on Miscou Island to Macquereau Point Light; for the bay of Miramichi, the line from the Light at Point Escuminac to the Light on the eastern point of Tabisintac Gully; for Egmont Bay, in Prince Edward Island, the line from the Light at Cape Egmont to the Light at West Point; and off St. Ann's Bay, in the Province of Nova Scotia, the line from the Light at Point Anconi to the nearest point on the opposite shore of the mainland.

For or near the following bays the limits of exclusion shall be three marine miles seawards from the following lines, namely:

For or near Barrington Bay, in Nova Scotia, the line from the Light on Stoddard Island to the Light on the south point of Cape Sable, thence to the Light at Baccaro Point; at Chedabucto and St. Peter's Bays, the line from Cranberry Island Light to Green Island Light, thence to

Point Rouge; for Mira Bay, the line from the Light on the east point of Scatary Island to the northeasterly point of Cape Morien.

Long Island and Bryer Island, on St. Mary's Bay, in Nova Scotia, shall, for the purpose of delimitation, be taken as the coasts of such bays.

It is understood that the award does not cover Hudson Bay.

ARTICLE III

It is further agreed that the delimitation of all or any of the bays on the coast of Newfoundland, whether mentioned in the recommendations or not, does not require consideration at present.

ARTICLE IV

The present agreement shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty, and the ratifications shall be exchanged in Washington as soon as practicable.

In faith whereof the respective plenipotentiaries have signed this agreement in duplicate and have hereunto affixed their seals.

Done at Washington on the 20th day of July, one thousand nine hundred and twelve.

CHANDLER P. ANDERSON [SEAL.]

ALFRED MITCHELL INNES [SEAL.]

BRITISH NOTES OF JULY 8, 1912, AND NOVEMBER 14, 1912, CONCERNING PANAMA CANAL TOLLS

Chargé Innes to the Secretary of State

BRITISH EMBASSY

KINEO, MAINE.

July 8, 1912.

SIR,

The attention of His Majesty's Government has been called to the various proposals that have from time to time been made for the purpose of relieving American shipping from the burden of the tolls to be levied

on vessels passing through the Panama Canal, and these proposals together with the arguments that have been used to support them have been carefully considered with a view to the bearing on them of the provisions of the treaty between the United States and Great Britain of November 18th, 1901.

The proposals may be summed up as follows: —

- (1). To exempt all American shipping from the tolls,
- (2). To refund to all American ships the tolls which they may have paid,
- (3). To exempt American ships engaged in the coastwise trade,
- (4). To repay the tolls to American ships engaged in the coastwise trade.

The proposal to exempt all American shipping from the payment of the tolls, would, in the opinion of His Majesty's Government, involve an infraction of the treaty, nor is there, in their opinion any difference in principle between charging tolls only to refund them and remitting tolls altogether. The result is the same in either case, and the adoption of the alternative method of refunding the tolls in preference to that of remitting them, while perhaps complying with the letter of the treaty, would still contravene its spirit.

It has been argued that a refund of the tolls would merely be equivalent to a subsidy and that there is nothing in the Hay-Pauncefote treaty which limits the right of the United States to subsidise its shipping. It is true that there is nothing in that treaty to prevent the United States from subsidising its shipping and if it granted a subsidy His Majesty's Government could not be in a position to complain. But there is a great distinction between a general subsidy, either to shipping at large or to shipping engaged in any given trade, and a subsidy calculated particularly with reference to the amount of user of the Canal by the subsidised lines or vessels. If such a subsidy were granted it would not, in the opinion of His Majesty's Government, be in accordance with the obligations of the Treaty.

As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so regulated as to make it certain that only bona-fide coastwise traffic which is reserved for United States vessels would be benefited by this exemption, it may be that no objection could be taken. But it appears to my government that it would be impossible to frame regulations which would prevent the exemption from resulting, in fact, in a

preference to United States shipping and consequently in an infraction of the Treaty.

I have the honour to be,

With the highest consideration,

Sir,

Your most obedient, humble Servant,

A. MITCHELL INNES.

*The Secretary of State for Foreign Affairs of Great Britain to
Ambassador Bryce*

[Handed to the Secretary of State by the British Ambassador December 9, 1912.]

FOREIGN OFFICE, *November 14, 1912.*

SIR,

Your Excellency will remember that on the 8th July, 1912, Mr. Mitchell Innes communicated to the Secretary of State the objections which His Majesty's Government entertained to the legislation relating to the Panama Canal, which was then under discussion in Congress, and that on the 27th August, after the passing of the Panama Canal Act and the issue of the President's memorandum on signing it, he informed Mr. Knox that when His Majesty's Government had had time to consider fully the Act and the memorandum a further communication would be made to him.

Since that date the text of the Act and the memorandum of the President have received attentive consideration at the hands of His Majesty's Government. A careful study of the President's memorandum has convinced me that he has not fully appreciated the British point of view, and has misunderstood Mr. Mitchell Innes' note of the 8th July. The President argues upon the assumption that it is the intention of His Majesty's Government to place upon the Hay-Pauncefote treaty an interpretation which would prevent the United States from granting subsidies to their own shipping passing through the Canal, and which would place them at a disadvantage as compared with other nations. This is not the case; His Majesty's Government regard equality of all nations as the fundamental principle underlying the treaty of 1901 in the same way that it was the basis of the Suez Canal Convention of 1888, and they do not seek to deprive the United States of any liberty which is open either to themselves or to any other nation; nor do they

find either in the letter or in the spirit of the Hay-Pauncefote treaty any surrender by either of the contracting Powers of the right to encourage its shipping or its commerce by such subsidies as it may deem expedient.

The terms of the President's memorandum render it essential that I should explain in some detail the view which His Majesty's Government take as to what is the proper interpretation of the treaty, so as to indicate the limitations which they consider it imposes upon the freedom of action of the United States, and the points in which the Panama Canal Act, as enacted, infringes what His Majesty's Government hold to be their treaty rights.

The Hay-Pauncefote Treaty does not stand alone; it was the corollary of the Clayton-Bulwer Treaty of 1850. The earlier treaty was, no doubt, superseded by it, but its general principle, as embodied in article 8, was not to be impaired. The object of the latter treaty is clearly shown by its preamble; it was "to facilitate the construction of a ship canal to connect the Atlantic and Pacific oceans by whatever route may be deemed expedient, and to that end to remove any objection which may arise out of the Clayton-Bulwer Treaty to the construction of such canal under the auspices of the Government of the United States, without impairing the general principle of neutralization established in article 8 of that convention." It was upon that footing, and upon that footing alone, that the Clayton-Bulwer Treaty was superseded.

Under that treaty both parties had agreed not to obtain any exclusive control over the contemplated ship canal, but the importance of the great project was fully recognized, and therefore the construction of the canal by others was to be encouraged, and the canal when completed was to enjoy a special measure of protection on the part of both the contracting parties.

Under article 8 the two Powers declared their desire, in entering into the Convention, not only to accomplish a particular object, but also to establish a general principle, and therefore agreed to extend their protection to any practicable trans-isthmian communication, either by canal or railway, and either at Tehuantepec or Panama, provided that those who constructed it should impose no other charges or conditions of traffic than the two Governments should consider just and equitable, and that the canal or railway, "being open to the subjects and citizens of Great Britain and the United States on equal terms, should also be open to the subjects of any other State which was willing to join in the guarantee of joint protection."

So long as the Clayton-Bulwer Treaty was in force, therefore, the position was that both parties to it had given up their power of independent action, because neither was at liberty itself to construct the Canal and thereby obtain the exclusive control which such construction would confer. It is also clear that if the Canal had been constructed while the Clayton-Bulwer Treaty was in force, it would have been open, in accordance with article 8, to British and United States ships on equal terms, and equally clear, therefore, that the tolls leviable on such ships would have been identical.

The purpose of the United States in negotiating the Hay-Pauncefote Treaty was to recover their freedom of action, and obtain the right, which they had surrendered, to construct the Canal themselves; this is expressed in the preamble to the treaty, but the complete liberty of action consequential upon such construction was to be limited by the maintenance of the general principle embodied in article 8 of the earlier treaty. That principle, as shown above, was one of equal treatment for both British and United States ships, and a study of the language of article 8 shows that the word "neutralisation," in the preamble of the later treaty, is not there confined to belligerent operations, but refers to the system of equal rights for which article 8 provides.

If the wording of the article is examined, it will be seen that there is no mention of belligerent action in it at all. Joint protection and equal treatment are the only matters alluded to, and it is to one, or both, of these that neutralisation must refer. Such joint protection has always been understood by His Majesty's Government to be one of the results of the Clayton-Bulwer Treaty of which the United States was most anxious to get rid, and they can scarcely therefore believe that it was such joint protection that the United States were willing to keep alive, and to which they referred in the preamble of the Hay-Pauncefote Treaty. It certainly was not the intention of His Majesty's Government that any responsibility for the protection of the Canal should attach to them in the future. Neutralisation must therefore refer to the system of equal rights.

It thus appears from the preamble that the intention of the Hay-Pauncefote Treaty was that the United States was to recover the right to construct the trans-isthmian canal upon the terms that, when constructed, the canal was to be open to British and United States ships on equal terms.

The situation created was in fact identical with that resulting from

the Boundary Waters Treaty of 1909 between Great Britain and the United States, which provided as follows: —

The high contracting parties agree that the navigation of all navigable boundary waters shall for ever continue free and open for the purposes of commerce to the inhabitants and to the ships, vessels, and boats of both countries equally, subject, however, to any laws and regulations of either country, within its own territory, not inconsistent with such privilege of free navigation, and applying equally and without discrimination to the inhabitants, ships, vessels, and boats of both countries.

It is further agreed that so long as this treaty shall remain in force this same right of navigation shall extend to the waters of Lake Michigan and to all canals connecting boundary waters and now existing, or which may hereafter be constructed on either side of the line. Either of the high contracting parties may adopt rules and regulations governing the use of such canals within its own territory, and may charge tolls for the use thereof; but all such rules and regulations and all tolls charged shall apply alike to the subjects or citizens of the high contracting parties, and they * * * shall be placed on terms of equality in the use thereof. *

A similar provision, though more restricted in its scope, appears in Article 27 of the Treaty of Washington, 1871, and Your Excellency will no doubt remember how strenuously the United States protested, as a violation of equal rights, against a system which Canada had introduced of a rebate of a large portion of the tolls on certain freight on the Welland Canal, provided that such freight was taken as far as Montreal, and how in the face of that protest the system was abandoned.

The principle of equality is repeated in article 3 of the Hay-Pauncefote Treaty, which provides that the United States adopts, as the basis of the neutralisation of the Canal, certain rules, substantially as embodied in the Suez Canal Convention. The first of these rules is that the Canal shall be free and open to the vessels of commerce and war of all nations observing the rules on terms of entire equality, so that there shall be no discrimination against any such nation.

The word "neutralisation" is no doubt used in article 3 in the same sense as in the preamble, and implies subjection to the system of equal rights. The effect of the first rule is therefore to establish the provision, foreshadowed by the preamble and consequent on the maintenance of the principle of article 8 of the Clayton-Bulwer Treaty, that the Canal is to be open to British and United States vessels on terms of entire equality. It also embodies a promise on the part of the United States that the ships of all nations which observe the rules will be admitted to similar privileges.

The President in his memorandum treats the words "all nations" as

excluding the United States. He argues that, as the United States is constructing the Canal at its own cost on territory ceded to it, it has, unless it has restricted itself, an absolute right of ownership and control, including the right to allow its own commerce the use of the Canal upon such terms as it sees fit, and that the only question is whether it has by the Hay-Pauncefote Treaty deprived itself of the exercise of the right to pass its own commerce free or remit tolls collected for the use of the Canal. He argues that article 3 of the treaty is nothing more than a declaration of policy by the United States that the Canal shall be neutral and all nations treated alike and no discrimination made against any one of them observing the rules adopted by the United States. "In other words, it was a conditional favoured-nation treatment, the measure of which, in the absence of express stipulations to that effect, is not what the country gives to its own nationals, but the treatment it extends to other nations."

For the reasons they have given above His Majesty's Government believe this statement of the case to be wholly at variance with the real position. They consider that by the Clayton-Bulwer Treaty the United States had surrendered the right to construct the Canal, and that by the Hay-Pauncefote treaty they recovered that right upon the footing that the Canal should be open to British and United States vessels upon terms of equal treatment.

The case cannot be put more clearly than it was put by Mr. Hay himself, who, as Secretary of State, negotiated the Hay-Pauncefote Treaty, in the full account of the negotiations which he sent to the Senate Committee on Foreign Relations (see Senate Document No. 746, 61st Congress, 3rd session): —

These rules are adopted in the treaty with Great Britain as a consideration for getting rid of the Clayton-Bulwer Treaty.

If the rules set out in the Hay-Pauncefote Treaty secure to Great Britain no more than most-favoured-nation treatment, the value of the consideration given for superseding the Clayton-Bulwer Treaty is not apparent to His Majesty's Government. Nor is it easy to see in what way the principle of article 8 of the Clayton-Bulwer treaty, which provides for equal treatment of British and United States ships, has been maintained.

I notice that in the course of the debate in the Senate on the Panama Canal Bill the argument was used by one of the speakers that the third-

fourth, and fifth rules embodied in article 3 of the treaty show that the words "all nations" cannot include the United States, because, if the United States were at war, it is impossible to believe that it could be intended to be debarred by the treaty from using its own territory for revictualling its war-ships or landing troops.

The same point may strike others who read nothing but the text of the Hay-Pauncefote Treaty itself, and I think it is therefore worth while that I should briefly show that this argument is not well founded.

The Hay-Pauncefote Treaty of 1901 aimed at carrying out the principle of the neutralisation of the Panama Canal by subjecting it to the same régime as the Suez Canal. Rules 3, 4, and 5 of article 3 of the treaty are taken almost textually from articles 4, 5, and 6 of the Suez Canal Convention of 1888. At the date of the signature of the Hay-Pauncefote Treaty the territory, on which the Isthmian Canal was to be constructed, did not belong to the United States, consequently there was no need to insert in the draft treaty provisions corresponding to those in articles 10 and 13 of the Suez Canal Convention, which preserve the sovereign rights of Turkey and of Egypt, and stipulate that articles 4 and 5 shall not affect the right of Turkey, as the local sovereign, and of Egypt, within the measure of her autonomy, to take such measures as may be necessary for securing the defence of Egypt and the maintenance of public order, and, in the case of Turkey, the defence of her possessions on the Red Sea.

Now that the United States has become the practical sovereign of the Canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection.

For these reasons, His Majesty's Government maintain that the words "all nations" in rule 1 of article 3 of the Hay-Pauncefote Treaty include the United States, and that, in consequence, British vessels using the Canal are entitled to equal treatment with those of the United States, and that the same tolls are chargeable on each.

This rule also provides that the tolls should be "just and equitable." The purpose of these words was to limit the tolls to the amount representing the fair value of the services rendered, i. e., to the interest on the capital expended and the cost of the operation and maintenance of the Canal. Unless the whole volume of shipping which passes through the Canal, and which all benefits equally by its services, is taken into account, there are no means of determining whether the tolls chargeable upon a vessel represent that vessel's fair proportion of the current ex-

penditure properly chargeable against the Canal, that is to say, interest on the capital expended in construction, and the cost of operation and maintenance. If any classes of vessels are exempted from tolls in such a way that no receipts from such ships are taken into account in the income of the Canal, there is no guarantee that the vessels upon which tolls are being levied are not being made to bear more than their fair share of the upkeep. Apart altogether, therefore, from the provision in rule 1 about equality of treatment for all nations, the stipulation that the tolls shall be just and equitable, when rightly understood, entitles His Majesty's Government to demand, on behalf of British shipping, that all vessels passing through the Canal, whatever their flag or their character, shall be taken into account in fixing the amount of the tolls.

The result is that any system by which particular vessels or classes of vessels were exempted from the payment of tolls would not comply with the stipulations of the treaty that the Canal should be open on terms of entire equality, and that the charges should be just and equitable.

The President, in his memorandum, argues that if there is no difference, as stated in Mr. Mitchell Innes' note of the 8th July, between charging tolls only to refund them and remitting tolls altogether, the effect is to prevent the United States from aiding its own commerce in the way that all other nations may freely do. This is not so. His Majesty's Government have no desire to place upon the Hay-Pauncefote Treaty an interpretation which would impose upon the United States any restriction from which other nations are free, or reserve to such other nation any privilege which is denied to the United States. Equal treatment, as specified in the treaty, is all they claim.

His Majesty's Government do not question the right of the United States to grant subsidies to United States shipping generally, or to any particular branches of that shipping, but it does not follow therefore that the United States may not be debarred by the Hay-Pauncefote Treaty from granting a subsidy to certain shipping in a particular way, if the effect of the method chosen for granting such subsidy would be to impose upon British or other foreign shipping an unfair share of the burden of the upkeep of the Canal, or to create a discrimination in respect of the conditions or charges of traffic, or otherwise to prejudice rights secured to British shipping by this Treaty.

If the United States exempt certain classes of ships from the payment of tolls the result would be a form of subsidy to those vessels which

His Majesty's Government consider the United States are debarred by the Hay-Pauncefote Treaty from making.

It remains to consider whether the Panama Canal Act, in its present form, conflicts with the treaty rights to which His Majesty's Government maintain they are entitled.

Under section 5 of the Act the President is given, within certain defined limits, the right to fix the tolls, but no tolls are to be levied upon ships engaged in the coastwise trade of the United States, and the tolls, when based upon net registered tonnage for ships of commerce, are not to exceed 1 dollar 25 c. per net registered ton, nor be less, *other than for vessels of the United States and its citizens*, than the estimated proportionate cost of the actual maintenance and operation of the Canal. There is also an exception for the exemptions granted by article 19 of the Convention with Panama of 1903.

The effect of these provisions is that vessels engaged in the coastwise trade will contribute nothing to the upkeep of the Canal. Similarly vessels belonging to the Government of the Republic of Panama will, in pursuance of the treaty of 1903, contribute nothing to the upkeep of the Canal. Again, in the cases where tolls are levied, the tolls in the case of ships belonging to the United States and its citizens may be fixed at a lower rate than in the case of foreign ships, and may be less than the estimated proportionate cost of the actual maintenance and operation of the Canal.

These provisions (1) clearly conflict with the rule embodied in the principle established in article 8 of the Clayton-Bulwer Treaty of equal treatment for British and United States ships, and (2) would enable tolls to be fixed which would not be just and equitable, and would therefore not comply with rule 1 of article 3 of the Hay-Pauncefote Treaty.

It has been argued that as the coastwise trade of the United States is confined by law to United States vessels, the exemption of vessels engaged in it from the payment of tolls cannot injure the interests of foreign nations. It is clear, however, that the interests of foreign nations will be seriously injured in two material respects.

In the first place, the exemption will result in the cost of the working of the Canal being borne wholly by foreign-going vessels, and on such vessels, therefore, will fall the whole burden of raising the revenue necessary to cover the cost of working and maintaining the Canal. The possibility, therefore, of fixing the toll on such vessels at a lower figure

than 1 dol. 25 c. per ton, or of reducing the rate below that figure at some future time, will be considerably lessened by the exemption.

In the second place, the exemption will, in the opinion of His Majesty's Government, be a violation of the equal treatment secured by the treaty, as it will put the "coastwise trade" in a preferential position as regards other shipping. Coastwise trade cannot be circumscribed so completely that benefits conferred upon it will not affect vessels engaged in the foreign trade. To take an example, if cargo intended for an United States port beyond the Canal, either from east or west, and shipped on board a foreign ship could be sent to its destination more cheaply, through the operation of the proposed exemption, by being landed at an United States port before reaching the Canal, and then sent on as coastwise trade, shippers would benefit by adopting this course in preference to sending the goods direct to their destination through the Canal on board the foreign ship.

Again, although certain privileges are granted to vessels engaged in an exclusively coastwise trade, His Majesty's Government are given to understand that there is nothing in the laws of the United States which prevents any United States ship from combining foreign commerce with coastwise trade, and consequently from entering into direct competition with foreign vessels while remaining "prima facie" entitled to the privilege of free passage through the Canal. Moreover any restriction which may be deemed to be now applicable might at any time be removed by legislation or even perhaps by mere changes in the regulations.

In these and in other ways foreign shipping would be seriously handicapped, and any adverse result would fall more severely on British shipping than on that of any other nationality.

The volume of British shipping which will use the Canal will in all probability be very large. Its opening will shorten by many thousands of miles the waterways between England and other portions of the British Empire, and if on the one hand it is important to the United States to encourage its mercantile marine and establish competition between coastwise traffic and transcontinental railways, it is equally important to Great Britain to secure to its shipping that just and impartial treatment to which it is entitled by treaty, and in return for a promise of which it surrendered the rights which it held under the earlier convention.

There are other provisions of the Panama Canal Act to which the attention of His Majesty's Government has been directed. These are

contained in section 11, part of which enacts that a railway company, subject to the Inter-State Commerce Act of 1887, is prohibited from having any interest in vessels operated through the Canal with which such railways may compete, and another part provides that a vessel permitted to engage in the coastwise or foreign trade of the United States is not allowed to use the Canal if its owner is guilty of violating the Sherman Anti-Trust Act.

His Majesty's Government do not read this section of the Act as applying to, or affecting, British ships, and they therefore do not feel justified in making any observations upon it. They assume that it applies only to vessels flying the flag of the United States, and that it is aimed at practices which concern only the internal trade of the United States. If this view is mistaken and the provisions are intended to apply under any circumstances to British ships, they must reserve their right to examine the matter further and to raise such contentions as may seem justified.

His Majesty's Government feel no doubt as to the correctness of their interpretation of the treaties of 1850 and 1901, and as to the validity of the rights they claim under them for British shipping; nor does there seem to them to be any room for doubt that the provisions of the Panama Canal Act as to tolls conflict with the rights secured to their shipping by the treaty. But they recognize that many persons of note in the United States, whose opinions are entitled to great weight, hold that the provisions of the Act do not infringe the conventional obligations by which the United States is bound, and under these circumstances they desire to state their perfect readiness to submit the question to arbitration if the Government of the United States would prefer to take this course. A reference to arbitration would be rendered unnecessary if the Government of the United States should be prepared to take such steps as would remove the objections to the Act which His Majesty's Government have stated.

Knowing as I do full well the interest which this great undertaking has aroused in the New World and the emotion with which its opening is looked forward to by United States citizens, I wish to add before closing this despatch that it is only with great reluctance that His Majesty's Government have felt bound to raise objection on the ground of treaty rights to the provisions of the Act. Animated by an earnest desire to avoid points which might in any way prove embarrassing to the United States, His Majesty's Government have confined their objections within

the narrowest possible limits, and have recognized in the fullest manner the right of the United States to control the Canal. They feel convinced that they may look with confidence to the Government of the United States to ensure that in promoting the interests of United States shipping, nothing will be done to impair the safeguards guaranteed to British shipping by treaty.

Your Excellency will read this despatch to the Secretary of State and will leave with him a copy.

I am, &c.,

E. GREY.

TREATY OF PEACE BETWEEN ITALY AND TURKEY ¹

Signed at Lausanne, October 18, 1912

His Majesty the King of Italy and His Majesty the Emperor of the Ottomans, equally animated by the desire to bring to an end the state of war existing between the two countries, have appointed as their plenipotentiaries:

His Majesty the King of Italy:

Mr. Pietro Bertolini, Grand-Cross of the Order of the Crown of Italy, Grand-officer of the Order of Saints Maurice and Lazarus, deputy of Parliament,

Mr. Guido Fusinato, Grand-Cross of the Order of the Crown of Italy, Grand-Officer of the Order of Saints Maurice and Lazarus, deputy of Parliament, Counsellor of State,

Mr. Giuseppe Volpi, Commander of the Order of Saints Maurice and Lazarus and of the Crown of Italy.

His Majesty the Emperor of the Ottomans:

His Excellency Mehmed Naby Bey, Grand-Cordon of the Imperial Order of Osmaniè, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of the Ottomans,

His Excellency Roumboyoglou Fahreddin Bey, Grand-Officer of the Imperial Order of Medjidiè, Commander of the Imperial Order of Osmaniè, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of the Ottomans,

Who, after having communicated to each other their respective full powers which were found in good and due form, have agreed upon the following articles:

¹ Translated from the *Gazzetta Ufficiale del Regno D' Italia*, October 19, 1912.

ARTICLE 1

Immediately after the signing of the present treaty, the two governments pledge themselves to take the necessary measures to bring about the immediate and simultaneous cessation of hostilities. Special commissioners shall be sent to the places to insure the execution of the said measures.

ARTICLE 2

After the signing of the present treaty, the two governments pledge themselves to issue orders immediately for the recall of their officers and troops, and their civilian employes, that is to say, the Ottoman Government will recall these officers, troops and civilian employes from Tripoli and Cyrenaïca, and the Italian Government from the islands occupied by Italy in the Ægean Sea, respectively.

The actual departure of the Italian officers, troops and civilian employes from the said islands shall take place immediately after the Ottoman officers, troops and civilian employes shall have departed from Tripoli and Cyrenaïca.

ARTICLE 3

The prisoners of war and hostages shall be exchanged in the shortest possible time.

ARTICLE 4

The two governments pledge themselves to grant full and absolute amnesty, the Royal Government to the inhabitants of Tripoli and Cyrenaïca, and the Imperial Government to the inhabitants of the islands in the Ægean Sea subject to Ottoman sovereignty, who took part in the hostilities and those who may have compromised themselves as a result thereof, excepting offenses against the common law. In consequence, no person, to whatever class or condition he may belong, shall be prosecuted or molested in his person or property, or in the exercise of his rights by reason of his political or military acts, or for opinions expressed during the hostilities. All persons detained and deported on such grounds shall be released immediately.

ARTICLE 5

All the treaties, conventions and engagements of any kind, sort and nature, concluded or in force between the two high contracting parties before the declaration of war shall again enter into immediate effect and

the two governments, as also their respective subjects, shall be placed toward one another in the identical situation in which they were before the outbreak of hostilities.

ARTICLE 6

Italy pledges herself to conclude with Turkey by the same time the latter shall renew her treaties of commerce with the other Powers, a treaty of commerce on the basis of European public law, that is to say, Italy consents to leave to Turkey all the latter's economic independence and the right, in commercial and customs matters, to act like all other European Powers, and without being bound by the capitulations and other acts, entered into up to this day. It is well understood that the said treaty of commerce shall not enter into force until the treaties of commerce concluded by the Sublime Porte with the other Powers on the same basis shall have been put into effect.

In addition, Italy consents to an increase from 11% to 15% of the *ad valorem* customs duties in Turkey as well as to the creation of new monopolies or the levying of additional taxes of consumption upon the five following commercial articles: petrole, cigarette paper, matches, alcohol, playing cards. All that, provided equal treatment is applied simultaneously and without distinction to the importations from the other countries.

In so far as the importation of articles forming the object of a monopoly is concerned, the administration of these monopolies is obliged to secure articles of Italian manufacture according to the percentage established on the basis of the annual importations of these same articles, provided that the prices offered for the delivery of the articles of monopoly conform to the market situation at the time of the purchase, taking into consideration the quality of the goods and the average prices which have been current during the three years preceding that of the declaration of war.

It is, moreover, agreed that if Turkey, instead of establishing new monopolies upon the said five articles, should decide to levy extra taxes of consumption on them, these extra taxes shall be imposed in the same measure upon similar products of Turkey and of all other nations.

ARTICLE 7

The Italian Government pledges itself to close the Italian postal offices operating in the Ottoman Empire at the same time the other states having postal offices in Turkey shall close theirs.

ARTICLE 8

As the Sublime Porte proposes to open, in a European conference or otherwise, with the great Powers interested, negotiations for the purpose of doing away with the capitular régime in Turkey and to replace it with the régime of international law, Italy, recognizing the good grounds of these intentions of the Sublime Porte, declares its willingness from now on to render to the Porte to that end her complete and sincere aid.

ARTICLE 9

The Ottoman Government, wishing to show its satisfaction for the good and loyal service which it received from the Italian subjects employed in the administrations and whom it found itself compelled to dismiss at the time of the hostilities, declares itself ready to reinstate them in the positions which they had left.

An allowance shall be paid to them for the months during which they were not employed, and this interruption of service shall cause no prejudice to those of the said employees who would be entitled to a pension on account of length of service.

In addition, the Ottoman Government pledges itself to use its good offices with the institutions with which it is connected (public debt, railroad companies, banks, etc.) to the end that they may act in the same manner toward the Italian subjects who were in their service and are in a similar situation.

ARTICLE 10

The Italian Government pledges itself to pay annually to the treasury of the public debt for the Imperial Government a sum corresponding to the average of the sums which in each of the three years preceding that of the declaration of war have been assigned to the service of the public debt under the revenues of the two provinces. The amount of the said annuity shall be determined by mutual accord of two commissioners, one of whom is to be designated by the Royal Government, the other by the Imperial Government. In case of disagreement, the decision shall be submitted to an arbitral commission composed of the said commissioners and an umpire designated by mutual agreement of the two parties. If the agreement cannot be reached, each of the parties shall designate a different Power and the selection of the umpire shall be made jointly by the Powers thus designated.

The Royal Government, as well as the administration of the Ottoman

public debt through the medium of the Imperial Government, shall have the right to request, in place of the aforementioned annuity, a single payment of a corresponding sum, capitalized at 4%.

In reference to the preceding paragraph, the Royal Government now acknowledges that the annuity cannot be less than two million Italian lire and that it is ready to pay to the administration of the public debt the corresponding capitalized sum as soon as the demand for it is presented.

ARTICLE 11

The present treaty shall enter into force on the day of its signature.

In faith of which the plenipotentiaries have signed the present treaty and affixed their seals thereto.

Lausanne, Oct. 18, 1912.

Signed: PIETRO BERTOLINI.

Signed: GUIDO FUSINATO.

Signed: GIUSEPPE VOLPI.

Signed: MEHEMMED NABY.

Signed: ROUMBOYOGLOU FAHREDDIN.

ARBITRATION AGREEMENT BETWEEN THE IMPERIAL RUSSIAN GOVERNMENT AND THE IMPERIAL OTTOMAN GOVERNMENT

Signed at Constantinople July 22/August 4, 1910

The Imperial Russian Government and the Imperial Ottoman Government, co-signatories of the Hague convention of October 18, 1907, for the peaceful settlement of international disputes:

Considering the provisions of Article 5 of the treaty signed at Constantinople between Russia and Turkey, January 27/February 8, 1879,¹ as follows:

The claims of Russian subjects and institutions in Turkey for indemnity on account of damages suffered during the war will be paid as soon as they are examined by the Russian Embassy at Constantinople and transmitted to the Sublime Porte.

The total of these claims shall in no case exceed 26,750,000 francs.

Claims may be presented to the Sublime Porte beginning one year from the date

¹ Printed in SUPPLEMENT to this JOURNAL, Vol. II, p. 424.

on which ratifications are exchanged, and no claims will be admitted which are presented after the expiration of two years from that date;

Considering the additional explanation contained in the protocol bearing the same date:

As to the expiration of one year, fixed by this Article as the date from which claims may be presented to the Sublime Porte, it is understood that one exception will be made in favor of the Russian Hospital's claim, amounting to 11,200 pounds sterling;

Considering that a disagreement has arisen between the Imperial Russian Government and the Imperial Ottoman Government as to the questions of law arising from the dates on which the Imperial Ottoman Government made the following payments on the amounts of the indemnities regularly presented in pursuance of the said Article 5, to wit:

	Turkish pounds	Piastres	Paras
In 1884 . . .	50,000	—	—
In 1889 . . .	50,000	—	—
In 1893 . . .	75,000	—	—
In 1894 . . .	50,000	—	—
In 1902 . . .	42,438	67	22
			<hr/> 40

Considering that the Imperial Russian Government holds that the Imperial Ottoman Government is responsible to the Russian claimants for interest-damages because of the delay in settling its debt;

Considering that the Imperial Ottoman Government contests, both in fact and in law, the grounds of the Imperial Russian Government's contention;

Considering that it has not been possible to settle the dispute through diplomatic channels;

And having resolved, in conformity with the stipulations of the said Hague convention, to end this controversy by submitting the question to arbitration;

Have authorized to this effect their representatives designated below, to wit:

For Russia,

His Excellency Monsieur Tcharikow, Ambassador of his Majesty the Emperor of Russia at Constantinople;

For Turkey,

His Excellency Rifaat Pasha, Minister of Foreign Affairs, to conclude the following *compromis*:

ARTICLE 1

The Powers in controversy decide that the arbitral tribunal to which the question will be submitted as a last resort shall be composed of five members, who shall be appointed in the following manner:

Each party must name, as soon as possible and within two months from the date of this *compromis*, two arbitrators, and the four arbitrators thus appointed shall choose an umpire. In case the four arbitrators shall not, within two months of their appointment, have chosen an umpire either unanimously or by a majority, the choice of an umpire devolves upon a third party agreed upon by the parties. If, after the lapse of two more months, an agreement is not reached upon this question, each party designates a different Power and the umpire is chosen by the Powers thus designated.

If, after the lapse of two more months, these two Powers have not been able to agree, each of them presents two candidates selected from the list of members of the Permanent Court, exclusive of the members of the said court selected by the two Powers or by the parties and being nationals neither of the former nor of the latter. These candidates, moreover, cannot belong to the nationality of the arbitrators appointed by the parties in the present arbitration. The umpire is chosen by lot from the two candidates thus presented.

The drawing of lots will be done by the International Bureau of the Permanent Court at The Hague.

ARTICLE 2

The Powers in controversy will be represented before the arbitral tribunal by agents, counsel or advocates, in conformity with the provisions of Article 62 of the Hague convention of 1907 for the peaceful settlement of international disputes.

These agents, counsel or advocates will be appointed by the parties in ample time to prevent any delay in the arbitration.

ARTICLE 3

The questions in dispute and upon which the parties ask the arbitral tribunal to render a definitive decision are as follows:

1. Whether or not the Imperial Ottoman Government must pay the Russian claimants interest-damages by reason of the dates on which the said government made payment of the indemnities determined in pursuance of Article 5 of the treaty of January 27/February 8, 1879, as well as of the protocol of the same date?

II. In case the first question is decided in the affirmative, what would be the amount of these interest-damages?

ARTICLE 4

The arbitral tribunal, as soon as it is constituted, will meet at The Hague at a date which will be determined by the arbitrators and within one month from the appointment of the umpire. After settling — in conformity with the letter and the spirit of the Hague convention of 1907 — all questions of procedure which may arise and which may not be provided for in the present *compromis*, the said tribunal will determine the date of its next meeting.

However, it is agreed that the tribunal cannot open the arguments on the questions in dispute, either before the expiration of two months or after the expiration of three months from the filing of the counter-case or the counter-reply provided for by Article 6 and eventually of the demands stipulated in Article 8.

ARTICLE 5

The arbitral procedure will include two distinct phases: the written statement of the case, and the arguments which will consist in the oral development of the pleas of the parties before the tribunal.

French is the only language which the tribunal will use and which may be used before it.

ARTICLE 6

Within eight months at most after the date of the present *compromis*, the Imperial Russian Government must deliver to each of the members of the arbitral tribunal one complete copy, written or printed, of its case containing every argument in support of its claim and with reference to the two questions mentioned in Article 3; and to the Imperial Ottoman Government ten copies.

Within eight months at most after this delivery, the Imperial Ottoman Government must deliver to each of the members of the tribunal, as well as to the Imperial Russian Government, the same number of

complete copies as specified above, written or printed, of its counter-case with all supporting arguments, but confining itself to Question 1 of Article 3.

Within one month after this delivery the Imperial Russian Government will inform the president of the arbitral tribunal whether it intends to present a reply. In that case, it will have an extension of three months at most from the date of such notification in which to communicate the said reply under the same conditions as the case. The Imperial Ottoman Government will then have an extension of four months from the date of this communication to present its counter-reply, under the same conditions as the counter-case.

The extensions fixed by the present article may be lengthened if agreed to by both parties, or if the tribunal deems it necessary in order to reach a just decision.

But the tribunal will not take into consideration cases, counter-cases or other communications which are presented to it by the parties after the expiration of the last extension which it has granted.

ARTICLE 7

If in the cases or other papers exchanged either of the parties has referred or alluded to a document or paper of which it alone is in possession and of which it has not furnished a copy, it must furnish the other party with a copy, if the other party so requests, within thirty days.

ARTICLE 8

In case the arbitral tribunal decides Question 1 of Article 3 in the affirmative, it must, before taking up Question 2 of the same article, grant the parties further extensions, which may not be less than three months each, for the presentation and exchange of their demands and arguments in support.

ARTICLE 9

The decisions of the tribunal on the first, and contingently on the second question at issue, shall be rendered, in so far as possible, within one month from the closing by the president of the arguments relating to each of these questions.

ARTICLE 10

The judgment of the arbitral tribunal shall be final and must be executed strictly and without any delay.

ARTICLE 11

Each party bears its own expenses and half of the expenses of the tribunal.

ARTICLE 12

Whatever questions arise in this arbitration which are not provided for by the present *compromis* shall be governed by the stipulations of the Hague convention for the peaceful settlement of international disputes, except, however, those articles the acceptance of which has been reserved by the Imperial Ottoman Government.

Done at Constantinople, July 22/August 4, 1910.

(Signed) N. TCHARYKOW.

(Signed) RIFAAT.



OFFICIAL DOCUMENTS

CONVENTION BETWEEN AUSTRIA-HUNGARY AND SERVIA RELATING TO QUESTIONS OF CIVIL PROCEDURE, THE EXECUTION OF JUDICIAL DE- CISIONS, CIVIL AND COMMERCIAL MATTERS, AND BANKRUPTCIES ¹

*Signed at Belgrade, March 17/30, 1911; ratifications exchanged
January 23, 1912*

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary, and His Majesty the King of Serbia, desiring to regulate between Austria and Hungary, on the one part, and Serbia, on the other part, the relations concerning certain questions of civil procedure, the execution of judicial decisions and transactions of civil and commercial matters, as well as of bankruptcies, have resolved to conclude a convention to that effect, and have appointed as their plenipotentiaries, to wit:

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary:

For Austria and for Hungary: Count Jean Forgách de Ghymes et Gács, Privy Councilor, his Envoy Extraordinary and Minister Plenipotentiary to the Royal Court of Serbia, Grand-Cross of the Order of Francis Joseph, Knight of the Order of Leopold and of the Order of the Iron Crown, third class, etc.;

For Austria: Chevalier Othon de Lutterotti de Gazzolis et Langenthal, Ministerial Counsellor in the Royal Austrian Ministry of Justice, etc.;

For Hungary: Mr. Gustave de Töry, Secretary of State in the Royal Hungarian Ministry of Justice, Knight of the Order of Leopold, etc.; and

His Majesty the King of Serbia: Mr. M. G. Milovanovitch, His Minister of Foreign Affairs, Grand-Cross of the Order of St. Sava, Commander of the Star of Karageorge and of the White Eagle, etc.;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following articles:

¹ Translated from the *Sbornik Ugarsko-Hrvatskih Zajednickih Zakona*, No. 3, January 27, 1912.

A. Communication of judicial and extra-judicial acts and letters rogatory

ARTICLE 1

The contracting parties pledge themselves, in civil and commercial matters to communicate to each other subpœnas or other acts and to have letters rogatory executed through their respective authorities, in the manner prescribed by the internal legislation of the state requested, or in a special form requested by the demanding state provided this form is not contrary to the laws of the state requested.

These acts and letters rogatory shall be accompanied, for Austria, by a German or French translation, for Hungary, by a Hungarian or French translation, for Servia, by a Servian, a German or French translation, if these documents are not drawn up in any one of these languages, or in the language of the authority requested. This shall likewise be done regarding annexes. The expenses occasioned on account of these translations shall be borne by the demanding state.

All documents proving that notification was made, or showing the reason which prevented such notification, all answers to letters rogatory and documents drawn up in the execution of letters rogatory, as well as their annexes, shall be accompanied by translations only upon the request of the demanding state, and upon payment of the expenses of translation.

All documents referred to above shall be exempt from legalization and bear the seal of the legal authority issuing them. Their transmittal shall be effected upon the request of the consular functionary authorized by the demanding state, and addressed to the authority designated by the state requested.

The dispositions of this article shall not affect the right of the contracting parties to have the notifications intended for citizens of the demanding state made directly, but without constraint, through the medium of their diplomatic agents or consular officers.

ARTICLE 2

The execution of the notification mentioned in Article 1 may not be refused, except when the state in whose territory it is to be served considers it of a nature prejudicial to its sovereignty or security.

The proof of notification shall consist of a dated and legalized receipt from the addressee, or of a certificate from the authority of

the state requested, stating the fact, the form and date of the notification.

If the act to be notified was transmitted in duplicate, the receipt or the certificate must be attached to one of the two copies or annexed thereto.

ARTICLE 3

The judicial authority to which letters rogatory, mentioned in Article 1, are addressed shall be required to comply therewith, by resorting to the same process as in the execution of letters rogatory of the authorities of the state requested, or in a demand made to that end by an interested party. This procedure shall not necessarily be resorted to in the case of summons to parties in a law-suit.

The demanding authority shall, upon request, be informed of the date when and the place where the action which is requested is to be taken, so that the party interested may be able to be present.

Compliance with letters rogatory cannot be refused except:

- (1) When the authenticity of the document is not established;
- (2) When, in the state requested, compliance with letters rogatory does not come within the jurisdiction of the judicial power;
- (3) When the state within whose territory the execution should take place, considers it of a nature prejudicial to its sovereignty or security.

In case of incompetency on the part of the authority to which the letters rogatory are addressed, they shall be officially transferred to the competent judicial authority of the same state, according to the rules established by the law of the latter.

In all cases when letters rogatory are not complied with by the authority requested, the latter shall immediately notify the demanding authority by indicating, in cases coming within the specifications of paragraph 3, the reasons on account of which compliance with letters rogatory was refused, and, in cases falling within the meaning of the preceding paragraph, the authority to which the letters are transferred.

ARTICLE 4

Communications of acts and letters rogatory cannot justify a request for the reimbursement of taxes or outlays of any nature whatever.

But, the state requested shall have the right to require that the demanding state shall reimburse it for any compensation paid to witnesses or experts.

B. *Access to the tribunals. The 'judicatum solvi' guarantee*

ARTICLE 5

The citizens of each of the high contracting parties shall have the right to prosecute and defend their rights before the courts of the other contracting party, even against the citizens of the latter. The tribunals of each of the contracting parties shall in these matters treat them on exactly the same basis as their nationals.

In so far as the laws regarding the civil procedure of the contracting parties contain dispositions concerning jurisdiction exclusively applicable to foreigners, these dispositions shall not be applied to the citizens of the contracting parties.

Duly legalized extracts taken from the books of commerce kept within the territory of one of the contracting parties shall have the same probatory force before the tribunals of the other party as the extracts from the books of commerce kept in the country itself.

ARTICLE 6

No bail or deposit of any description whatever may be imposed, either by reason of their being foreigners, or because they have no domicile or residence in the country, upon the citizens of one of the contracting parties having their domicile within the territory of one of these parties who are either plaintiffs or parties to a suit before the tribunals of the other contracting party.

ARTICLE 7

Judgment for costs of suit pronounced by the tribunals of one of the contracting parties against the plaintiff or a party to the law-suit, exempt from bail or deposit in virtue either of Article 6 or of the law of the state where the action is brought, shall, upon request made through diplomatic channels, be executed free of cost by the competent authority of the other contracting party in accordance with the law of the country.

ARTICLE 8

Decisions relating to costs of suit shall be carried out without hearing the parties, reserving the rights of the party condemned to subsequent action in accordance with the laws of the country where the execution takes place.

The authority competent to decide upon the request to execute the sentence shall confine itself to the examination of

(1) Whether, in accordance with the law of the country where the judgment was pronounced, the copy of the decision meets the conditions necessary for its authenticity,

(2) Whether, in accordance with the same law, the decision has reached the status of *res judicata*;

(3) Whether the text of the decision is drafted or translated in accordance with the rule contained in Article 1, paragraph 2.

To meet the conditions prescribed by the preceding paragraph, numbers (1) and (2), a declaration from the competent authority of the demanding state, stating that the decision has reached the status of *res judicata*, will be sufficient. The declaration just referred to must be drafted or translated in accordance with the rule contained in Article 1, paragraph 2.

C. *Gratuitous judicial assistance*

ARTICLE 9

The citizens of each of the contracting parties shall, within the territory of the other, be admitted to the benefit of gratuitous judicial assistance, in the same manner as the nationals themselves, by conforming to the laws of the state where the gratuitous judicial assistance is requested.

ARTICLE 10

In any case, the certificate or declaration of indigence must be delivered or received by the authorities of the customary place of residence of the party making the request, or, for lack of such residence, by the authorities of his actual place of residence. In case the residence of the party making the request should not be located within the territory of the contracting parties, and the authorities of his place of residence shall not deliver or receive certificates or declarations of this nature, a certificate or a declaration delivered or received by a diplomatic agent or consular officer of the country to which the party making the request belongs, will be sufficient.

If the party making the request does not reside within the territory of the contracting party whose authorities have been petitioned, the certificate or the declaration of indigence shall, in so far as its legalization

is required, be legalized free of cost by a diplomatic agent or a consular officer of the country where the document is to be presented.

ARTICLE 11

The authority competent to deliver the certificate or to receive the declaration of indigence may gather information from the authorities of the other contracting party in regard to the financial status of the party making the request.

The authority deciding upon the request for gratuitous judicial assistance retains, within the sphere of its authority, the right to control the certificates, declarations and information furnished.

D. Execution of judicial decisions and transactions in matters civil and commercial

ARTICLE 12

There shall be no execution, in virtue of the dispositions of the present convention, except when a demand is made for a sum of money or other property, and provided the demand does not relate to property rights or other rights upon real property situated in the state from which the execution is demanded.

The stipulation of paragraph 1 is not opposed to subjecting to execution real property situated in the state from which the execution is demanded when the matter in question concerns executory documents and not relating to property rights or other real rights upon real property situated in the state where the execution is to take place.

ARTICLE 13

Execution shall be complied with on both sides:

(1) On the basis of decisions, orders of payment and other decrees rendered by the civil and commercial tribunals of each of the contracting parties;

(2) On the basis of matters adjudicated in litigations before the said tribunals;

(3) On the basis of decisions rendered by arbiters, in so far as the latter might be invited to decide upon the case either in virtue of a written *compromis*, or in virtue of a legal regulation establishing the jurisdiction of an arbitral tribunal for certain cases.

ARTICLE 14

Nevertheless, execution shall not take place in case it would serve to establish a juridical relation or a pretension contrary, for reasons of public order or of morality, to the law of the place of execution.

ARTICLE 15

Execution on the basis of a judicial decision may only take place under the following conditions:

(1) When the tribunal which passed judgment upon the case is competent in accordance with the dispositions of Article 16 of the present convention;

(2) When the decision has reached the status of *res judicata* and become enforceable.

ARTICLE 16

The jurisdiction of the tribunal which acted upon the case shall be considered established in the meaning of Article 15, number 1, when, in accordance with the laws of the state requested, the matter could have been brought before a tribunal of the other contracting party.

Jurisdiction shall always be considered established in the following cases:

(1) When the point in question relates to a demand formulated by the holder of a draft or check against a person obligated by the draft or check, and when judgment has been passed upon the matter by the tribunal of the place which, in accordance with the laws of this tribunal, is considered the place of payment.

(2) When, upon a counterclaim, the tribunal before which the original demand was pending has rendered judgment in accordance with the laws binding within its own jurisdiction;

(3) When the parties to the case are merchants, manufacturers or industrials and judgment has been passed upon a demand in execution or annulment of a contract, or in damages for non-execution or imperfect execution, by the tribunal of the place where the contract was concluded or is to be carried out;

(4) When, by mutual agreement, the parties have previously accepted the jurisdiction of the tribunal which rendered judgment upon the matter.

ARTICLE 17

Execution on the basis of a judicial transaction shall take place only when this transaction is enforceable in accordance with the laws of the place where it was rendered.

ARTICLE 18

Execution of an arbitral decision shall take place only when it has reached the status of *res judicata* and become enforceable.

ARTICLE 19

The demand for execution shall be accompanied by the following documents:

- (1) A copy of the judicial or arbitral decision and the grounds on which this decision was reached or a copy of the judicial transaction;
- (2) An official declaration certifying that the decision has reached the status of *res judicata* and that it constitutes an enforceable act, or that the judicial transaction has become enforceable.

The dispositions of Article 1 concerning the language and the copy of letters rogatory, as well as the disposition of Article 3, paragraph 4, are applicable to the demand for execution. The demand shall be transmitted through diplomatic channels.

ARTICLE 20

The competent authority of the state requested shall decide upon the admissibility of the execution, without hearing the party indebted. Execution shall be granted, provided the conditions stipulated in regard thereto by Articles 12 to 19 of the present convention are fulfilled. The tribunal requested is inhibited from entering into the examination of the principle involved in the case.

ARTICLE 21

When, in letters rogatory demanding the execution, an authorized agent of the prosecuting party is not designated, the tribunal proceeding to the execution must appoint such an agent and give notice thereof to the requesting tribunal.

ARTICLE 22

If the execution is granted, the measures necessary to effect the same, equaling the security, shall be taken officially and without delay.

ARTICLE 23

The party indebted may, with the exception of an appeal to a higher court granted by the laws of the country, plead the following reasons against the execution effected in accordance with Article 22:

(1) That one of the conditions stipulated by Articles 12 to 18 of the present convention is lacking.

(2) That the defendant did not receive proper notice of the bringing of the law-suit, and therefore, in the procedure upon which the decision was based had not entered denial;

(3) That, in consequence of any other irregularity of procedure, the defendant was deprived of the right to take part in the proceedings;

(4) That, in accordance with the law of the place where the decision was rendered or the transaction took place, the decision or transaction has ceased to be enforceable;

(5) That, in accordance with the law of the place of execution, the plea of *res judicata* is contrary to the claim which is the basis of the execution.

Notification will be considered regular within the meaning of number 2 only when the bringing of the law-suit was notified in person to the defendant or to his representative authorized to receive such notice. Within the territory of the contracting party before whose tribunals the demand for execution is presented, the notification must be effected through judicial assistance or in the manner prescribed by the last paragraph of Article 1.

With the exception of the cases indicated by Article 14 and by numbers 4 and 5 of the present article, the reasons to be pleaded against execution must be set forth within two weeks reckoned from the time of the notification of the decree of execution.

If the party indebted, in accordance with the preceding dispositions, opposes the execution, the competent tribunal shall, after brief argument, decide whether the execution shall not be denied for one of the reasons enumerated above.

The hearing must be held as soon as possible and within a period of two weeks reckoned from the date on which the defendant pleads.

If the reasons pleaded are declared unfounded, or if such reasons have not been pleaded in proper time, the execution adjudged, equaling the security, shall be prosecuted officially up to the amount of the debt.

ARTICLE 24

In so far as this convention does not contain any special dispositions to the contrary, the laws of the state requested must be applied to carry out the execution.

ARTICLE 25

When, on account of the absence of the required conditions, the execution is denied, the prosecuting creditor shall be free to appeal the case.

The demand for execution may, however, be renewed by the requesting tribunal, or by the party interested, provided the conditions stipulated by the present convention are subsequently fulfilled.

ARTICLE 26

The legal expenses occasioned by the execution of the decisions and judicial transactions shall be borne by the parties to the suit and paid in accordance with the laws in force in the country where the execution takes place; in case of necessity, they shall be provided for in advance by the state requested.

If the reimbursement of the said expenses cannot be obtained from the parties, they shall be borne by the demanding state.

The fees that might have to be paid at the time of the execution shall be determined in accordance with the laws of the country where the execution is to be effected. The execution cannot be delayed, however, for the reason that the aforementioned fees have not been paid.

ARTICLE 27

The decisions rendered and the transactions enacted within the territory of one of the contracting parties shall, within the territory of the other, have the same force and effect as the decisions and transactions arising in that country, provided the execution is there enforceable by virtue of the present convention.

ARTICLE 28

The seizure of a person, either as a means of execution, or merely as a conservatory measure, may not, in civil or commercial matters, be applied to foreigners, citizens of one of the contracting parties, in cases where it could not apply to citizens of the country. A fact which may

be pleaded by a citizen domiciled in the country, to secure release from arrest, may also be pleaded by a citizen of the other contracting party, even although this fact took place abroad.

E. Bankruptcy

ARTICLE 29

In case a bankrupt within the territory of one of the contracting parties possesses personal property within the territory of the other without maintaining a residence there, the conservation, inventory and conveyance of the said property to the tribunal before which the action in bankruptcy is brought shall be attended to, if such a demand is made by the tribunal before which the action is brought.

When a demand is addressed to the competent tribunal concerning the conservation or conveyance of the said property, no further wages can be legally paid out of the property susceptible of conveyance from the day on which the said demand shall have reached the tribunal. Conveyance to the tribunal before which the action is brought shall not be effected when rights of recovery or restitution, rights of detention or privileges, wages or other real rights, established before the above-mentioned day, are claimed, either before or after that day, upon the property in question. A similar result follows when sequestration, especially in a succession, of such property is demanded. In this case, only such property as is left over after the said claims have been fully satisfied can be conveyed to the tribunal.

Debts due, including mortgage debts upon real estate, shall be deemed to belong to the personal property.

ARTICLE 30

Measures to be taken in the case of personal property, which, in accordance with the preceding article, is not included in the conveyance, as well as measures regarding all the real property of a bankrupt, shall at all times come within the jurisdiction of the tribunals of the state within whose territory these properties are situated.

If these properties are there subjected to a forced sale, any surplus left over after the lawful creditors have been satisfied shall be conveyed to the tribunal before which the action in bankruptcy is brought, in conformity with the dispositions of the preceding article.

ARTICLE 31

In bankruptcy cases occurring within the territory of one of the contracting parties, the creditors who are citizens of the other shall be treated exactly as national creditors.

When, in a case of bankruptcy, it is presumed that there are creditors within the territory of the other contracting party, the fact that there is bankruptcy must also be published in the newspapers of the other country, designated to that effect, and in accordance with the regulations in force there.

F. *Final dispositions*

ARTICLE 32

The present convention shall become effective eight days after the exchange of ratifications and shall take the place of the convention relating to mutual assistance in judicial matters dated May 6/April 24, 1881. It shall remain in force until December 31, 1917.

If, twelve months before the expiration of the said period, neither of the contracting parties shall have notified its intention to terminate it, the treaty shall remain in force until the expiration of one year from the day when either of the contracting parties denounces the same.

ARTICLE 33

The present convention shall be ratified and the ratifications exchanged at Belgrade as soon as possible.

In faith of which the respective plenipotentiaries have signed it and affixed their seals thereto.

Done in duplicate at Belgrade, March 17/30, 1911.

(L. S.) FORGÁCH, m. p.

(L. S.) LUTTEROTTI, m. p.

(L. S.) TÖRY, m. p.

(L. S.) M. G. MILOVANOVITCH, m. p.

TREATY BETWEEN FRANCE AND SPAIN REGARDING MOROCCO¹*November 27, 1912*

PREAMBLE

The President of the French Republic and His Majesty the King of Spain;

Desirous of determining the respective positions of France and Spain as regards the Shereefian Empire,

Considering moreover that the present treaty offers them a propitious opportunity to declare their sentiments of mutual friendship and their desire to come to an agreement as to their interests in Morocco;

Have agreed upon the following provisions:

ARTICLE 1

The Government of the French Republic recognizes that, in the Spanish zone of influence, Spain has the right to maintain peace in the said zone and to assist the Moroccan Government in introducing all the administrative, economic, financial, judicial and military reforms which it requires, as well as such new regulations and changes in existing regulations which may be necessitated by these reforms, in conformity with the Franco-English declaration of April 8, 1904, and the Franco-German agreement of November 4, 1911.

The regions included in the zone of influence determined by Article 2 will remain under the civil and religious authority of the Sultan, according to the provisions of the present agreement.

These regions will be governed by a Caliph, under the supervision of a Spanish High Commissioner, which Caliph shall be chosen by the Sultan from two candidates proposed by the Spanish Government. The Caliph shall not exercise his functions or be deprived of them without the consent of the Spanish Government.

The Caliph will reside in the Spanish zone of influence and ordinarily at Tetuan; he shall be provided with a general delegation of power by the Sultan, by virtue of which he shall exercise the rights belonging to the Sultan.

This delegation of power will be permanent in character. In case

¹ Translated from *Le Memorial Diplomatique*, December 8, 15, 22, 1912.

of a vacancy, the functions of the Caliph will be provisionally performed by the Pasha of Tetuan *ex officio*.

The acts of the Moroccan authority in the Spanish zone of influence will be under the control of the Spanish High Commissioner and his agents. The High Commissioner will be the only intermediary in the intercourse which the Caliph, as deputy of the imperial authority in the Spanish zone, may have with foreign official agents, with the understanding that Article 5 of the Franco-Shereefian treaty of March 30, 1912, shall not be infringed.

The Government of His Majesty the King of Spain will see to the observance of the treaties, especially the economic and commercial clauses contained in the Franco-German agreement of November 4, 1911.

The Shereefian Government will be held in no way responsible in the matter of claims brought about by acts committed under the administration of the Caliph in the Spanish zone of influence.

ARTICLE 2

In the northern part of Morocco the boundary between the Spanish and French spheres of influence will begin at the mouth of the Muluya and extend up the channel of that river to a point one kilometer below Mechra-Klila. From this point the line of demarkation will follow that fixed by Article 2 of the convention of October 3, 1904, as far as Jebel Beni Hassan.

In case the mixed boundary commission provided for by paragraph 1 of Article 4 (below) should ascertain that the Marabout of Sidi-Maarouf belongs to the southern section of the Beni Buyahi, that point shall be included in the French zone. However, the line of demarkation between the two zones after having included the said Marabout, will not pass it at more than one kilometer on the north or at more than two kilometers on the west in rejoining the line of demarkation as fixed in the preceding paragraph.

From Jebel Beni Hassan the boundary will meet the river Wergha north of the Jema of the Cheurfa Tafraout, above the bend of the river. Thence, extending westward, it will follow the line of the heights rising from the right bank of the river Wergha as far as its intersection with the north and south line described in Article 2 of the convention of 1904. In following this course, the boundary will keep as close as possible to the northern limits of the riparian tribes of the river Wergha and the southern limits of the tribes that are not riparian, assuring uninterrupted

military communication between the different regions of the Spanish zone. It will then extend in a northerly direction, keeping at least 25 kilometers to the east of the road between Fez and El-Ksar El Kebir via Wazzan until it reaches the river Loukkos; whose channel it will follow down-stream to the boundary between the tribes of Sarsar and Tlig. From this point it will round Jebel Ghani, leaving this mountain in the Spanish zone, with the understanding that no permanent fortifications will be constructed there. Finally, the boundary will extend to the 35th parallel of north latitude between the Douar of Mgarya and the Marya of Sidi Slama, and will follow this parallel to the sea.

In the northern part of Morocco the boundary between the French and the Spanish zones will be marked by the channel of the river Draa, which it will follow up-stream from the sea to its juncture with the 11th meridian west of Paris. It will follow this meridian southward to its juncture with the parallel 27 degrees 40 minutes north latitude. South of this parallel Articles 5 and 6 of the convention of October 3, 1904 will remain effective. The Moroccan territories situated to the north and east of the limits fixed in this paragraph will belong to the French zone.

ARTICLE 3

The Moroccan Government having, by Article 8 of the treaty of April 20, 1860, granted to Spain a (fishing) station at Santa-Cruz de Mar Pequena (Ifni), it is understood that this station will have the following boundary: on the north the river Bou Sedra from its mouth; on the south the river Noun from its mouth; on the east a line approximately 25 kilometers distant from the coast.

ARTICLE 4

A technical commission, the members of which shall be appointed by the French and Spanish Governments, each appointing the same number, will fix the exact lines of delimitation specified in the preceding articles. In performing its work the commission may take into account not only topographical variations, but also local contingencies.

The reports of the commission will not be effective until they are ratified by the two governments.

Nevertheless, the work of the commission, as above provided for, will not prevent Spain from taking immediate possession of its station at Ifni.

ARTICLE 5

Spain binds itself not to transfer or relinquish in any manner, even temporarily, its rights as to the whole or any part of the territory composing its zone of influence.

ARTICLE 6

In order to assure free passage in the Straits of Gibraltar, the two governments agree not to allow the construction of fortifications or strategic works of any kind on that portion of the Moroccan coast referred to in Article 7 of the Franco-English declaration of April 8, 1904, and in Article 14 of the Franco-Spanish convention of October 3rd of the same year, and included in the respective spheres of influence.

ARTICLE 7

The city of Tangier and its outskirts will be provided with a special government, which will be determined hereafter; they will form a zone included within the following described limits:

Starting from Punta Altares on the southern coast of the Straits of Gibraltar, the boundary will extend in a straight line along the crest of Jebel Beni Meyimel, keeping the village called Dzar-ez-Zeitun on the west, and will then follow the boundary line between the Fahs on the one side and the tribes of Anjera and of Wed Ras on the other side, to its juncture with the river Es Seghir. Thence, the boundary will follow the channel of the river Es Seghir, then the channels of the rivers M'harhar and Tzahadartz to the sea.

All in conformity with the lines indicated on the map of the Spanish Staff-Office, entitled: "Croquis del Imperio de Marruecos" drawn to the scale of 1.100.000, edition of 1906.

ARTICLE 8

The consulates, schools and all the French and Spanish establishments now existing in Morocco will be maintained.

The two governments bind themselves to see that every form of religion existing in Morocco shall have freedom of worship.

The Government of His Majesty the King of Spain, so far as it is concerned, will see to it that the religious privileges at present enjoyed by the Spanish clergy, regular and secular, shall not exist in the French zone. Nevertheless, the Spanish missions in that zone shall keep their estab-

lishments and such properties as they now hold, but the Government of His Majesty the King of Spain will not contend that monks of French nationality may not be affected. Whatever new establishments these missions may found will be entrusted to French monks.

ARTICLE 9

As long as the railroad from Tangier to Fez remains unconstructed, there shall be no restraint to the passage of provision convoys intended for the Maghzens, nor to the travelling of Shereefian officials or foreigners between Fez and Tangier, in either direction, nor to the passage of their escort, of their arms and baggage, it being understood that the authorities of the zone that is being traversed shall be advised in advance. No tax or any special toll may be levied for such passage.

After its construction the railroad between Tangier to Fez can be used for such transportation.

ARTICLE 10

The imposts and resources of every kind in the Spanish zone will be appropriated for the expenses of said zone.

ARTICLE 11

The Shereefian Government cannot be called upon to share in any way the expenses of the Spanish zone.

ARTICLE 12

The Government of His Majesty the King of Spain will not impair the rights, prerogatives or privileges of the holders of bonds for the loans of 1904 and 1910 in its zone of influence.

With the view of putting the exercise of these rights in harmony with the new situation, the Government of the Republic will use its influence with the representative of the holders, so that the operation of the guarantees in the said zone will be in accord with the following provisions:

The Spanish zone of influence will contribute to the expenses of the loans of 1904 and 1910 in the ratio which the receipts of the ports of the said zone, after deducting the 500,000 *p. h.* which will be referred to further on, bear to the customs receipts of all the ports which are open to commerce.

This contribution is provisionally fixed at 7.95%, which figure is based upon the receipts for the year 1911. It will be subject to revision every year upon request by one or the other of the parties. The revision provided for must take place before the 15th of May following the fiscal period which is to be the basis. Its results will be taken into account in the payment to be made by the Spanish Government on the 1st of June, as hereinafter specified.

The Government of His Majesty the King of Spain will, on the first of March of each year for the loan of 1910, and on the 1st of June for the loan of 1904, place in the hands of the representative of the holders of the bonds for these two loans the amount of the annuities fixed by the preceding paragraph. Consequently direct collection on account of the loans will be suspended in the Spanish zone by the application of Article 20 of the contract of June 12, 1904, and Article 19 of the contract of May 17, 1910.

The control of the holders and the rights pertaining thereto, the exercise of which shall have been suspended by reason of the payments made by the Spanish Government, will be restored to their present status, in case the representatives of the holders should have to resume direct collection in conformity with the contracts.

ARTICLE 13

On the other hand, the French and Spanish zones must be assured of the revenue coming to them from import customs duties.

The two governments agree:

1. That, the customs receipts which each of the two zonal administrations shall collect upon products passing through its custom houses but intended for the other zone having been balanced, the French zone shall receive a total sum of 500,000 *pesetas hassani*, made up as follows:

(A) A contract sum of 300,000 *pesetas hassani* from the receipts of the western ports.

(B) A sum of 200,000 *pesetas hassani* from the receipts of the Mediterranean coast, subject to revision when the operation of the railroads makes an accurate calculation possible. This possible revision may be applied to payments previously made if their amount was greater than that of the payments to be made in future. However, the principal only will be refunded, and no interest will be allowed.

If the revision thus effected causes a reduction in the French receipts from the customs duties of the Mediterranean ports, it will involve *ipso*

facto a revival of the Spanish contribution to the expenses of the above-mentioned loans.

2. That the customs receipts collected by the office at Tangier shall be divided *pro rata* between the internationalized zone and the other two zones according to the final destination of the merchandise. Until the operation of the railroads permits an accurate division of the sums due to the French and the Spanish zones, the customs house will deposit in the State Bank the surplus of these receipts, payment made on the part of Tangier.

The customs departments of the two zones will agree, through representatives who will meet periodically at Tangier, upon proper measures to insure a uniformity of tariffs. These delegates will communicate to each other for all useful purposes any information which they may have gathered about smuggling or possible irregular transactions in the customs offices.

The two governments will put into effect on March 1, 1913 the measures contained in this article.

ARTICLE 14

The security in the Spanish zone given to French creditors by virtue of the Franco-Moroccan agreement of March 21, 1910, will be transferred for the benefit of Spanish creditors, and reciprocally the security in the French zone given to Spanish creditors, by virtue of the Spanish-Moroccan Treaty of November 16, 1910, will be transferred for the benefit of French creditors. With a view to reserving to each zone the amount of the mining royalties which should naturally come to it, it is understood that royalties proportional to the output will belong to the zone where the mine is situated, even when they are collected by a customs office of the other zone where the material is taken out.

ARTICLE 15

As to the advances made by the State Bank upon the 5% of the customs offices, it appears equitable that the two zones shall assume not only the reimbursement of the said advances, but in a general way the cost of the liquidation of the present debt of the Maghzen.

In case this liquidation is effected by means of a long or a short term loan, each of the two zones will contribute to the payment of the annuities on this loan (interest and reduction of principal) in the same ratio

as that fixed for the division between the two zones of the loans of 1904 and 1910.

The rate of interest, the periods for reduction of principal and for conversion, the conditions of the issue, and, if there is occasion for it, the guarantees of the loan will be determined after an understanding is reached by the two governments.

Debts contracted after the signing of this agreement will not be included in this liquidation.

The total amount of the debt to be liquidated comprises especially:

1. The advances of the State Bank secured by the 5% of the income from customs;
2. The debts liquidated by the commission appointed by virtue of the regulation of the diplomatic corps of Tangier, dated May 29, 1910. The two governments reserve the right to examine conjointly debts other than those provided for above under numbers 1 and 2, and to verify their legality, and, in case the total of the debts appreciably exceeds the sum of 25,000,000 francs, to include them or not in the liquidation provided for.

ARTICLE 16

Since the administrative autonomy of the French and Spanish zones of influence in the Shereefian Empire cannot impair the rights, prerogatives and privileges granted by the Moroccan Government, in conformity with the Act of Algeciras, to the State Bank of Morocco, for the entire territory of the empire, the State Bank of Morocco will continue to enjoy in each of the two zones all the rights which it possesses from the acts which govern it, without diminution or reservation. The autonomy of the two zones cannot interfere with its activity, and the two governments shall facilitate the free and complete exercise by the State Bank of its rights.

The State Bank of Morocco may, with the consent of the two interested Powers, modify the conditions of its operation with a view to harmonizing them with the territorial organization of each zone.

The two governments will recommend that the State Bank consider a modification of its statutes which will permit:

1. The appointment of a second Moroccan High Commissioner, who shall be designated by the administration of the Spanish zone of influence after an understanding with the administrative council of the Bank;
2. The conferring upon this second High Commissioner of duties as

nearly as possible identical with those of the present High Commissioner, in order to safeguard the legitimate interests of the administration of the zone without impairing the normal operation of the Bank.

All necessary steps will be taken by the two governments for the regular revision, in the sense indicated above, of the statutes of the State Bank and the regulation of its relations with the Moroccan Government.

In order to determine and complete the understanding between the two governments as stated in the letter of February 23, 1907 from the Minister of Foreign Affairs of the Republic to the Ambassador of His Majesty the King of Spain at Paris, the French Government binds itself, in so far as the Spanish zone is concerned, with the reservation of the rights of the Bank:

1. To support no candidate to the State Bank;
2. To inform the Bank of its desire to see candidates of Spanish nationality taken into consideration for positions in the said zone.

Reciprocally, the Spanish Government binds itself, in so far as concerns the French zone, with the reservation of the rights of the Bank:

1. To support no candidate to the State Bank;
2. To inform the Bank of its desire to see candidates of French nationality taken into consideration for positions in the said zone.

In so far as concerns:

1. The shares of the Bank which may belong to the Maghzen;
2. The profits coming to the Maghzen in the coinage and recoinage of money, as well as in all other monetary operations (Article 37 of the Act of Algeciras), it is understood that a proportion calculated upon the same basis of percentage as the royalties and profits of the tobacco monopoly will be allotted to the administration of the Spanish zone.

ARTICLE 17

Since the administrative autonomy of the French and Spanish zones of influence in the Sherreefian Empire cannot impair the rights, prerogatives and privileges granted by the Moroccan Government, in conformity with the General Act of Algeciras, for the whole territory of the empire, to the International Society for Co-operative Management of the Tobacco Trade (*Société internationale de régie co-intéressée des tabacs*) in Morocco, the said Society shall continue to enjoy in each of the two zones all the rights which it possesses under the acts which govern it, without diminution or reserve. The autonomy of the two zones may

not interfere with its operation and the two governments shall facilitate the free and complete exercise of its rights.

The present conditions of the working of the monopoly, particularly the sale tariff, may be modified only upon agreement of the two governments.

The French Government will not object to the Royal Government's consulting with the management (*régie*), either with the view of obtaining from that Society the retrocession to third parties of its rights and privileges in their entirety, or with the view of buying in amicably, by anticipation, the said rights and privileges. In case the Spanish Government, in consequence of the anticipated purchase, should desire to modify the general conditions of the operation of the monopoly in its zone, for example, if it wished to reduce the sale price, the two governments must come to an agreement solely for the purpose of safeguarding the interests of the French zone of influence.

The preceding stipulations shall apply reciprocally, in case the French Government should desire to avail itself of the privileges granted above to the Spanish Government.

Since the management (*régie*) may object to a partial purchase, the two governments now bind themselves to put into operation in both zones as soon as possible, that is to say on the first of January, 1933, so advising the management (*régie*) before January 1, 1931, the right of purchase provided for in Article 24 of the stipulations. From January 1, 1933, each of the two zones shall become free to establish according to its needs the imposts which are the object of the monopoly.

The two governments shall come to an agreement for the purpose of obtaining (observing the stipulations):

(a) The creation of a second commissioner appointed on behalf of the Spanish zone of influence;

(b) The determination of the powers which this second commissioner would require in order to safeguard the legitimate interests of the administration of the Spanish zone, without impairing the operation of the management (*régie*).

(c) The equal division between the two commissioners of the sum of 5000 *maghzenis rials*, in silver, annually paid by the management (*régie*) for the salary of the commissioner.

In order to maintain during the life of the monopoly the same tariff of selling prices in the two zones, the two governments bind themselves not to subject the management (*régie*) or its assigns to new imposts without previously coming to an agreement.

The amount of the fines imposed upon the management (*régie*) for the nonexecution of the stipulations or their violation (Article 31 of the stipulations) will be allotted to the treasury of the zone in which the infringements or violations may be committed.

The fixed annual royalty and the profits (Articles 20 to 23 of the stipulations) will be divided on the basis of a percentage determined by the consumption of the Spanish zone in comparison with the total consumption of the empire. This consumption will be estimated according to the customs receipts which actually remain in the hands of the administration of the Spanish zone, taking into account the transfer provided by Article 13 above.

ARTICLE 18

In so far as the committee on customs receipts is concerned, the special committee of public works and the general committee of adjudication, while these committees remain in force, the appointment of one Shereefian delegate to each one of these three committees will be reserved to the Caliph.

The two governments agree to reserve to each zone and to apply to its public works the amount of the special tax levied in its ports by virtue of Article 66 of the Act of Algeciras.

The respective services are autonomous.

On condition of reciprocity, the delegates of the administration of the French zone will vote with the delegates of the Caliph on questions concerning the Spanish zone, especially questions concerning the determination of the work to be performed with the funds from the special tax, the performance of that work, and the appointment of the personnel which such performance requires.

ARTICLE 19

The Government of the French Republic and the Government of His Catholic Majesty will consult with each other as to:

1. All future modifications of customs duties;
2. Making uniform postal and telegraph tariffs in the interior of the empire.

ARTICLE 20

The railroad line from Tangier to Fez will be constructed and operated under the conditions specified in the protocol annexed to this convention.

ARTICLE 21

The Government of the French Republic and the Government of His Catholic Majesty bind themselves to bring about, in conjunction with the other Powers and on the basis of the convention of Madrid, a revision of the lists and of the status of foreign protégés and agricultural partners provided for by Articles 8 and 16 of that convention.

They likewise agree to request the signatory Powers to consent to such modification of the convention of Madrid, when the time comes, as the change in the government of the protégés and agriculture partners would require, and eventually the abrogation of that portion of the said convention which concerns the protégés and agricultural partners.

ARTICLE 22

The Moroccan subjects who are natives of the Spanish zone of influence will be under the protection of the Spanish diplomatic and consular agents in foreign countries.

ARTICLE 23

In order to avoid as much as possible diplomatic claims, the French and Spanish Governments will take steps with the Sultan and his Caliph to have such complaints as are brought by foreign residents against the Moroccan authorities or those acting as Moroccan authorities, which complaints it may have been impossible to settle through the mediation of the French or Spanish consul and the consul of the interested government, referred to an arbitrator *ad hoc* in each case, who shall be appointed by agreement between the consul of France or Spain and the consul of the interested government or, in their default, by the two governments of these consuls.

ARTICLE 24

The Government of the French Republic and the Government of His Catholic Majesty reserve the right to establish in their respective zones judicial organizations in accordance with their own systems of legislation. When these organizations are established and the nationals and protégés of each country are subjected, in its zone, to the jurisdiction of these tribunals, the Government of the French Republic in the Spanish zone of influence, and the Government of His Majesty the King of Spain in the French zone of influence, will likewise subject to this local jurisdiction their respective nationals and protégés.

As long as paragraph 3 of Article 11 of the convention of Madrid of June 3, 1880 remains in force, the power which belongs to the Minister of Foreign Affairs of His Shereefian Majesty to take cognizance of questions concerning the real property of foreigners on appeal will be a part, in so far as the Spanish zone is concerned, of the powers delegated to the Caliph.

ARTICLE 25

The signatory Powers bind themselves to co-operate to their utmost in their African possessions with the Moroccan authorities in the supervision and suppression of smuggling in arms and munitions of war.

This supervision in the territorial waters of the French and Spanish zones respectively will be performed by forces organized by the local authority or by forces of the government protecting said zone.

The two governments will consult with each other for the purpose of making uniform the regulations governing the right of search.

ARTICLE 26

International agreements concluded in future by His Shereefian Majesty will not extend to the Spanish zone of influence except with the previous consent of the Government of His Majesty the King of Spain.

ARTICLE 27

The convention of February 25, 1904, renewed on February 3, 1909, as well as the general convention of The Hague of October 18, 1907, will apply to differences which may arise between the contracting parties concerning the interpretation and the application of the provisions of the present convention, which may not have been settled through diplomatic channels. A *compromis* must be drawn up according to the rules of the said conventions, unless it is dispensed with by express agreement at the time of the litigation.

ARTICLE 28

All clauses of treaties, conventions and former agreements which may conflict with the preceding stipulations are abrogated.

ARTICLE 29

The present convention will be communicated to the governments which were signatory to the General Act of the International Conference of Algeciras.

*Protocol Between France and Spain Concerning the Tangier-Fez
Railway*

ARTICLE 1

After a period of three months, reckoned from the date of signature of the present convention — it being, moreover, understood that it is only after the ratification of same that the concession defined by Article 2 and the following shall be acted upon — the two Governments of France and Spain shall determine, in their respective zones, the general direction of the line and its principal stations.

After the same period, they shall determine, by mutual agreement, on the one hand, the point where the said line shall cross the northern and southern boundaries of the Spanish zone, and, on the other, after consultation with the Tangierine authorities qualified for that purpose, the direction of the section comprised between the northern boundary of the Spanish zone and Tangier.

ARTICLE 2

The entire line shall be conceded to a single company, which shall be entrusted with the definitive surveys, the construction and operation of the line.

The concession shall be granted, to wit:

For the section situated in the French zone, by the Sultan, under the authority and with the guarantee of France;

For the section situated in the Spanish zone, by the Caliph, under the authority and with the guarantee of Spain;

And finally, for the section comprised between the northern boundary of the Spanish zone and Tangier, by the authorities qualified for that purpose and under the guarantee of those authorities.

However, in case the aforesaid authorities should not be definitively constituted at the time when the French and Spanish concessions may be granted, the two contracting governments agree that the concession of the Tangier-and-vicinity section shall be granted by the Sultan, under their joint guarantee, and after an understanding between the two Cabinets, though it shall be, with all the rights and obligations which it carries, afterwards passed upon by the Tangierine authority.

ARTICLE 3

The aforesaid company shall not be a concessionary of any other line, whether it be completely independent of the preceding or connecting with it, exception being made, however, in the case of quay tracks for the purpose of clearing the port of Tangier.

However, it may not refuse permission to enter into its stations to lines whose establishment may be determined upon by one of the other of the two governments, nor refuse to give them the same service as to itself in the said stations, whether these lines be constructed and operated directly by the two governments, or be conceded by them to other companies. It shall be under the same obligations with respect to private branch roads authorized by France or Spain for the benefit of either their own or foreign nationals, in conformity with Article 7 of the Franco-German treaty of November 4, 1911.

It is understood, moreover, that the states, companies, or private parties interested shall bear the expense of such new installations as are thus made necessary, and the additional cost of operating the lines and branch lines specified above.

ARTICLE 4

The capital, both stocks and bonds, of the concessionary company shall be 60% French and 40% Spanish.

However, France and Spain reserve the right to give, by mutual agreement, if there is any reason for so doing, a share to foreign capital, it being hereby specified that this share shall not in any case exceed 8%, and that half of it shall be deducted from the 60% and half from the 40% above mentioned.

Each of the two governments reserves the right to choose such establishment or loan society, or such group of establishments or loan societies of its own nationality, as it shall judge proper, to raise and to subscribe that part of the capital reserved to it.

If either of them should not believe itself bound to raise its full share, the other shall, of full right, assume the responsibility of completing it.

ARTICLE 5

The board of directors of the concessionary company shall be composed of fifteen members, nine French and six Spanish, appointed respectively by the French and Spanish stock-holders.

To these fifteen members there may be added, if by mutual agreement it is considered expedient, a sixteenth member of a third nationality.

A two-thirds majority of the votes cast by the board of directors shall be necessary in deciding questions which concern exclusively either the French or Spanish sections; in deciding all other questions a simple majority shall suffice.

The company shall have a French Director-General and a Spanish Assistant Director. The officials, both for the construction and operation, shall be 60% French and 40% Spanish. The appointment of the Director-General and the French officials shall be subject to the approval of France; that of the Assistant Director and the Spanish officials to the approval of Spain.

Besides the Director-General, Assistant Director and officials above mentioned, the agents employed in the surveying and construction shall be, as far as possible, French in the French section and Spanish in the Spanish section. As to the agents in charge of the operation, they shall be exclusively French in the French section, exclusively Spanish in the Spanish section, and half of them French and half of them Spanish in the Tangier-and-vicinity section. However, in this last section, and especially at the terminus at Tangier, a certain number of the positions shall be intrusted to agents of a third nationality, those remaining to be divided between France and Spain, half to each.

ARTICLE 6

The surveys of the line, previously divided into sections 20 to 30 kilometers long, shall be undertaken simultaneously at the Tangier and Fez extremities, and pushed with equal activity at both ends.

The plans of the different sections shall be presented by the company as soon as completed; the act of concession shall fix the dates for these successive presentations and shall provide for each of them a premium for each day ahead of time and a penalty for each day late; these premiums and penalties being the same for all the sections, with the exception of the last, for which they shall be doubled.

ARTICLE 7

The plans shall be approved:

For the French section, by the French Government;

For the Spanish section, by the Spanish Government;

And for the Tangier-and-viceinity section, by the Tangierine authority qualified for that purpose;

It being understood; however,

That the plans of the French section shall first be transmitted to the Spanish Government and those of the Spanish section to the French Government, each of these governments taking such account of the observations made by the other as it shall deem advisable. Failure to receive a reply within fifteen days from the date of the communication thus made will be regarded as unqualified concurrence;

That the plans of the Tangier-and-viceinity section shall be transmitted at one and the same time to the French and Spanish Governments, and they may be approved only if these two governments concur; failure to protest within fifteen days being equivalent, in this case also, to unqualified acceptance.

Each of the two governments agrees to pass upon every plan submitted to it within a maximum period of two months from the date of its presentation, either approving it or prescribing modifications and amendments which it may judge expedient. In the latter case, it shall fix the latest date on which a modified and amended plan must be presented, and it shall pass upon the same within a maximum period of one month after this new presentation.

Each of the plans above mentioned, as soon as finally approved, shall be awarded to the lowest bidder, for which the regulations set forth in Article 6, paragraphs 1 and 2, of the Franco-German treaty of November 4, 1911, shall be observed.

Contracts for tracks, bridges and buildings and rolling stock for each of the three sections of the line shall be awarded in the same manner.

The awarding of contracts in each of the three sections will be conducted and decided upon by the authority that granted the concession.

ARTICLE 8

On each of the three sections of the line, separate annual accounts shall be made of the original installation, of the supplementary work, and, finally, of the operation. The rules to be followed for the division of the receipts and expenditures between the three sections, and in each of them, between the three accounts above mentioned, shall be fixed by the act of concession.

The above mentioned accounts shall be verified in each section by the officials in charge of the construction and operation, by virtue of Articles 9

and 10 below. They shall not be approved, however, until they have been communicated to the officials of the other sections, who shall have a period of one month within which to present, on their account, such observations as they shall judge useful.

ARTICLE 9

The construction shall be under the management of, acceptance of work shall be passed upon by, and putting it into service authorized by:

The state engineers of France and Spain, in the French and Spanish sections, respectively;

The special tax officials, or, in case this service is discontinued, the officials to whom their duties are transferred, in the Tangier-and-vicinity section.

ARTICLE 10

Operation shall be assured upon the entire line in conformity with the regulations established by Article 6, paragraph 3 of the Franco-German treaty of November 4, 1911.

It shall be policed according to the laws and regulations of each state, by the French and Spanish Governments in their respective sections, and by the authority qualified for this purpose in the Tangier-and-vicinity section.

Each section shall be under the management of the same official as supervised the construction, it being understood that the Tangierine management shall, especially at the terminus at Tangier, prescribe such measures as shall be considered useful to the proper working of the line as a whole, and see to their execution.

ARTICLE 11

The French and Spanish Governments and the Tangierine authority qualified for this purpose, shall approve respectively the rates applying exclusively to the French, Spanish and Tangier-and-vicinity sections; rates which apply to two or all three of the sections of the line shall be approved by each of the interested zonal governments.

ARTICLE 12

In case the concessionary company, either during the period of construction, or after the beginning of its operation, should fail to fulfil

any one of the essential obligations of its contract, a legal demand shall be made upon it to fulfil these obligations within a stated period, which shall not be less than one month or more than three. If it fail to comply with this legal demand, its rights shall be forfeited. The legal demand may be made and the forfeiture declared by the French and Spanish Governments as to that section of the line which is situated in its territory, with the reservation that each give notice of same to the other.

If forfeiture is declared at one and the same time as to both the French and Spanish sections, it shall include *ipso facto* and of full right the Tangier-and-vicinity section.

ARTICLE 13

Each of the two governments (French and Spanish) reserves the right to proceed at any time after the entire line has been put into operation to the redemption of the section of the said line situated in its own territory, the price of redemption being calculated upon the basis which shall be fixed by the act of concession.

In this case, it shall, three months in advance, give notice of its intentions to both the other government and the Tangierine authority, so that measures applying to the operation of both the redeemed and unredeemed sections of the line, thus made distinct, may be drawn up by mutual agreement.

Whichever of the two governments shall make use of its right to redeem, must either itself assume the management of the redeemed section, or reconvey the concession only to a company of its own nationality.

ARTICLE 14

France and Spain agree to take all necessary steps in order that the concession of the Tangier-and-vicinity section may be either granted by the Tangierine authority at the same time as the French and Spanish concessions, if the said authority is, at that time, constituted; or accepted by that authority immediately after it is constituted, if in the meantime the concession shall have been granted by the two governments in conformity with the last paragraph of Article 2.

PANAMA CANAL TOLLS

The British Ambassador to the Secretary of State

BRITISH EMBASSY,
Washington, February 27, 1913.

Sir:

His Majesty's Government are unable before the administration leaves office to reply fully to the arguments contained in your despatch of the 17th ultimo to the United States Charge d'Affaires at London regarding the difference of opinion that has arisen between our two governments as to the interpretation of the Hay-Pauncefote Treaty, but they desire me in the meantime to offer the following observations with regard to the argument that no case has yet arisen calling for any submission to arbitration of the points in difference between His Majesty's Government and that of the United States on the interpretation of the Hay-Pauncefote Treaty, because no actual injury has as yet resulted to any British interest and all that has been done so far is to pass an Act of Congress under which action held by His Majesty's Government to be prejudicial to British interests might be taken.

From this view His Majesty's Government feel bound to express their dissent. They conceive that international law or usage does not support the doctrine that the passing of a statute in contravention of a treaty right affords no ground of complaint for the infraction of that right, and that the nation which holds that its treaty rights have been so infringed or brought into question by a denial that they exist, must, before protesting and seeking a means of determining the point at issue, wait until some further action violating those rights in a concrete instance has been taken, which in the present instance would, according to your argument, seem to mean, until tolls have been actually levied upon British vessels from which vessels owned by citizens of the United States have been exempted.

The terms of the proclamation issued by the President fixing the Canal tolls, and the particular method which your note sets forth as having been adopted by him, in his discretion, on a given occasion for determining on what basis they should be fixed do not appear to His Majesty's Government to affect the general issue as to the meaning of the Hay-Pauncefote Treaty which they have raised. In their view the Act of

Congress, when it declared that no tolls should be levied on ships engaged in the coasting trade of the United States and when, in further directing the President to fix those tolls within certain limits, it distinguished between vessels of the citizens of the United States and other vessels, was in itself and apart from any action which may be taken under it, inconsistent with the provisions of the Hay-Pauncefote Treaty for equality of treatment between the vessels of all nations. The exemption referred to appears to His Majesty's Government to conflict with the express words of Rule I of Article 3 of the Hay-Pauncefote Treaty, and the Act gave the President no power to modify or discontinue the exemption.

In their opinion the mere conferring by Congress of power to fix lower tolls on United States ships than on British ships amounts to a denial of the right of British shipping to equality of treatment, and is therefore inconsistent with the treaty irrespective of the particular way in which such power has been so far actually exercised.

In stating thus briefly their view of the compatibility of the Act of Congress with their treaty rights His Majesty's Government hold that the difference which exists between the two governments is clearly one which falls within the meaning of Article I of the arbitration treaty of 1908.

As respects the suggestion contained in the last paragraph but one of your note under reply His Majesty's Government conceive that Article I of the treaty of 1908 so clearly meets the case that has now arisen that it is sufficient to put its provisions in force in whatever manner the two governments may find the most convenient. It is unnecessary to repeat that a reference to arbitration would be rendered superfluous if steps were taken by the United States Government to remove the objection entertained by His Majesty's Government to the Act.

His Majesty's Government have not desired me to argue in this note that the view they take of the main issue—the proper interpretation of the Hay-Pauncefote Treaty—is the correct view, but only that a case for the determination of that issue has already arisen and now exists. They conceive that the interest of both countries requires that issue to be settled promptly before the opening of the Canal, and by means which will leave no ground for regret or complaint. The avoidance of possible friction has been one of the main objects of those methods of arbitration of which the United States has been for so long a foremost and consistent advocate. His Majesty's Government think it more in

accordance with the general arbitration treaty that the settlement desired should precede rather than follow the doing of any acts, which could raise questions of actual damage suffered; and better also that when vessels begin to pass through the great waterway in whose construction all the world has been interested there should be left subsisting no cause of difference which could prevent any other nation from joining without reserve in the satisfaction the people of the United States will feel at the completion of a work of such grandeur and utility.

I have, etc.,

JAMES BRYCE.

TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN BELGIUM
AND THE REPUBLIC OF HONDURAS ¹

Signed at Guatemala City, March 25, 1909; ratifications exchanged August 20, 1910

His Majesty, the King of the Belgians, and His Excellency, the President of the Republic of Honduras, inspired equally with the desire to maintain the cordial relations existing between Belgium and Honduras, to strengthen if possible their bonds of friendship and to facilitate and to extend the relations of commerce and navigation between their respective states, have resolved to conclude a treaty to that effect, and have named as their plenipotentiaries, to wit:

His Majesty, the King of the Belgians, Mr. Edward Pollet, Officer of the Order of Leopold, etc., Minister Resident in Guatemala; and

His Excellency, the President of the Republic of Honduras, Dr. Manuel J. Barahona, Chargé d'affaires to Guatemala;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE 1

There shall be perpetual peace and permanent friendship between the Kingdom of Belgium and the Republic of Honduras, and between the citizens of the two countries, with no reservations as to persons or places.

¹ Translated from *Le Memorial Diplomatique*, October 23-30, 1910, p. 567.

ARTICLE 2

There shall be full and complete freedom of commerce and navigation between Belgium and Honduras.

The citizens of each of the high contracting parties shall enjoy within the territory of the other, in matters of commerce, trade and navigation, the same rights, privileges, liberties, prerogatives, immunities and exemptions either granted already or to be granted in the future to the citizens of the most favored nations.

ARTICLE 3

Belgians in Honduras and the Hondurans in Belgium shall respectively be free to settle like nationals themselves their affairs of their own accord, or to entrust the settlement of them to the care of any other person, such as broker, mercantile agent or interpreter. No pressure shall be exerted upon them in making these selections, and they shall not be compelled to pay any salary or other compensation to those whom they shall not have deemed expedient to employ to that end; purchasers and vendors will, in addition, be absolutely free to combine efforts in their mercantile enterprises and to fix the price of any staple goods or merchandise imported or intended to be exported, provided they conform to the laws and customs regulations of the country.

ARTICLE 4

The citizens of each of the contracting parties shall be exempt within the territory of the other from all military service in the regular army and navy, as well as in the national guard and militia.

They shall be subject in time of peace and in time of war only to the services and military requisitions imposed upon nationals, and have a mutual right to the indemnities established in favor of nationals by the laws in force in the two countries.

ARTICLE 5

Vessels navigating under the respective flags and bearing the registry papers and documents required to prove the nationality of the mercantile vessels by the laws of the state to which they respectively belong, shall be considered Belgian in Honduras and Honduran in Belgium.

ARTICLE 6

The vessels of either of the two high contracting parties entering in ballast or loaded in the harbors of the other, or sailing from the latter, whatever be the place of their departure or of their destination, shall, in all respects, be treated on the same basis as national vessels. As well upon their arrival as upon their departure and during their stay in the harbor, they shall pay no other, nor higher tonnage, light-house, pilot, harbor, towing, quarantine duties, or any charges imposed upon the hull of the vessel under whatever description, collected for the benefit or in the name of the state, public officials, districts or corporations, or other establishments whatever, except such as are or may in future have to be paid by national vessels.

ARTICLE 7

In regard to the stationing of vessels, their loading and unloading in the harbors, estuaries, bays and basins, and in general in regard to all formalities and regulations of any nature whatever imposed upon vessels of commerce, their crews and cargoes, it is agreed that there shall be granted to the vessels of either of the high contracting parties no privilege nor any favor that is not equally granted to the vessels of the other, the desire of the two parties being that in this respect their vessels shall be treated on the basis of absolute equality.

ARTICLE 8

The vessels of each of the two states entering into the ports of the other to complete their loading or to unload a part of their cargo may, by conforming to the laws and regulations of the respective states, keep on board that part of the cargo which might be destined for another port, either of the same country, or of another, and to re-export the same, without being subjected to pay for this latter part of their cargo any customs duties, except dues for protection, which may, however, be collected only at the rate determined for national navigation.

ARTICLE 9

Merchandise of any nature, whose importation into the ports of Belgium is or shall be legally permitted in Belgian vessels, may likewise be imported in Honduran vessels without being subject to other or

higher duties of any description whatever than if the said merchandise were imported in national vessels.

Merchandise of any nature, whose importation into the ports of Honduras is or shall be legally permitted in Honduran vessels, may likewise be imported in Belgian vessels without being subject to other or higher duties of any description whatever than if the said merchandise were imported in national vessels.

Exception is made to the stipulations of the present treaty in regard to the advantages of which the products of national fisheries are or may be the object in one or the other of the respective countries.

ARTICLE 10

Merchandise of any nature exported from Belgium in Honduran vessels, or from Honduras in Belgian vessels, for any destination whatever, shall not be subject to any other duties or clearing formalities than if they were exported in national vessels, and they shall enjoy, under either flag, premiums or rebates of duties or other favors that are or may be granted in each of the respective countries to the national navigation.

ARTICLE 11

During the time fixed by the laws of each of the respective countries in regard to the storing of merchandise, the latter shall be cared for while awaiting transit, re-exportation or entry into the markets, by either of the two parties, in the same manner as merchandise imported under the national flag.

These goods, in no case, shall be subject to higher storage duties and any other formalities than if they had been imported under the national flag or had been brought in from the most favored country.

ARTICLE 12

Merchandise of any nature passing through either of the two states shall be mutually exempt from all transit duties, without prejudice to the special regulation regarding gun-powder, weapons and munitions of war.

The treatment of the most favored nation is mutually guaranteed to each of the two countries in all matters regarding transit.

ARTICLE 13

Neither of the two high contracting parties shall subject the other to any prohibition on importation, exportation or transit which is not equally applied to all other nations, except temporary prohibitions or restrictions which the one or the other of the parties might consider necessary for sanitary reasons, to prevent the spreading of epizootics or the destruction of the crops.

ARTICLE 14

The right of coastwise shipping from port to port within the territory of the two respective states shall be regulated in accordance with the laws and ordinances in force. But it is agreed between the two high contracting parties that in all respects, and within the territory of the other, each of them shall enjoy the favors and privileges which may be granted to the most favored nations.

ARTICLE 15

Neither of the high contracting parties shall impose upon merchandise directly produced from the soil or the industry of the other party any other or higher duties of importation than those that are or may be laid upon the same kind of merchandise derived from any other foreign state.

Each of the two parties pledges itself to let the other participate in any favor, privilege or rebate in the scale of duties on importation or exportation, which the other might grant to a third Power.

They pledge themselves, in addition, not to establish, the one against the other, any duty on importation or exportation which is not at the same time applied to all other nations.

ARTICLE 16

The high contracting parties declare hereby the mutual recognition to all companies and other commercial, industrial or financial associations, constituted or authorized according to the particular laws of one of the two countries, of the privilege to exercise all rights and to summon before the tribunals, either for the purpose of instituting a law-suit or of defending a law-suit, over the whole extent of the territory of the other state, without any other condition except that of conforming to the laws of that state. These companies or associations, established in the territory of one of the high contracting parties, may exercise within the

territory of the other party the rights which are granted to similar societies of all the other countries.

It is agreed that the preceding dispositions are applicable both to the companies and associations constituted or authorized before the signing of the present treaty, and to those that might be constituted or authorized subsequently.

ARTICLE 17

Vessels, merchandise and goods belonging to Belgians or to Hondurans which might have been seized by pirates within the limits of the jurisdiction of one of the two contracting parties, or on the high sea, and which might be forwarded to or found in the ports, rivers, estuaries or bays under the dominion of the other contracting party, shall be restored to their owners by the payment, if necessary, of the expenses incurred for their recovery, which shall be determined by the competent courts when the right of ownership shall have been proven before the courts and upon the demand that will have to be made, within the period of one year, by the interested parties, through their fully empowered representatives or by the agents of the respective governments.

ARTICLE 18

In all matters regarding navigation and commerce, the high contracting parties may not grant any privilege, favor or immunity to another state which is not also and immediately granted to their respective subjects.

ARTICLE 19

Each of the high contracting parties pledges itself to apply to the citizens of the other, the treatment of the most favored nation in all matters relating to the awarding of public works.

ARTICLE 20

Commercial agents traveling in Belgium in behalf of a firm established in Honduras, and commercial agents traveling in Honduras in behalf of a firm established in Belgium, shall not pay a higher license than that to which the commercial agents of all other nations are subject.

If the commercial agents of Belgian firms should be exempted in Honduras from the payment of license taxes, by way of reciprocity the same exemption shall be extended to the commercial agents of Honduran firms in Belgium.

All goods subject to an entrance duty, intended as samples and imported by these commercial agents, shall be temporarily admitted by each contracting party free of duty, by complying with the customs formalities necessary to insure their re-exportation or their reintegration in bond. These formalities shall be determined by each of the high contracting parties.

ARTICLE 21

The high contracting parties declare that the special privileges which the Republic of Honduras has granted to the other four Central American Republics, or to one of these, and those which it might in future grant, may not be claimed for Belgium by reason of the most favored nation treatment which has been granted by the present treaty, unless these privileges are granted to a country other than those of Central America.

ARTICLE 22

The contracting parties agree to settle by arbitration all questions concerning the interpretation and application of the present treaty, and which it might not be possible to settle to their mutual satisfaction through diplomatic channels.

ARTICLE 23

The present treaty shall remain in force during a period of six years reckoned from the day on which ratifications of the same shall have been exchanged. In case neither of the two high contracting parties should have notified, twelve months before the end of the said period, its intention to terminate the same, the treaty shall remain in force until after the expiration of one year reckoned from the day on which the one or the other of the high contracting parties shall have denounced the same.

ARTICLE 24

The present treaty shall be ratified and the ratifications thereof exchanged as soon as possible.

In faith of which, the plenipotentiaries have signed the same and affixed their seals thereto.

Done at Guatemala, March 25, 1909.

(L. S.) E. POLLET.

(L. S.) MANUEL J. BARAHONA.

Additional Declaration

The plenipotentiaries who signed the treaty of friendship, commerce and navigation on March 25, 1909, between Belgium and Honduras, have in addition, agreed upon the following:

There shall be considered as not contrary to the stipulations of the said treaty:

(1) The concessions stipulated with other conterminous states to facilitate local traffic within the boundary zone, that is to say, within a radius which may not exceed 15 kilometers from the boundary line;

(2) The concessions which one of the contracting parties grants or might grant to another state, by reason of a customs union already concluded, or which might be concluded in future;

(3) The collection of additional duties as indemnity for exportation or of production premiums.

The ratifications of the present declaration shall be exchanged at the same time as those of the act to which it relates.

In faith of which the undersigned plenipotentiaries have drafted the present declaration and affixed their seals thereto.

Done at Guatemala, August 30, 1909.

(L. S.) E. POLLET.

(L. S.) MANUEL J. BARAHONA.

COPYRIGHT CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND
THE KINGDOM OF HUNGARY ¹

*Signed at Budapest, January 30, 1912; ratifications exchanged
September 16, 1912*

The President of the United States of America, and His Majesty the Emperor of Austria, King of Bohemia etc. and Apostolic King of Hungary,

Desiring to provide, between the United States of America and Hungary, for a reciprocal legal protection in regard to copyright of the citizens and subjects of the two countries, have, to this end, decided to conclude a convention, and have appointed as their plenipotentiaries:

¹ U. S. Treaty Series, No. 571.

The President of the United States of America:

Richard C. Kerens, Ambassador Extraordinary and Plenipotentiary of the United States of America to His Imperial and Royal Apostolic Majesty; and His Majesty the Emperor of Austria, King of Bohemia etc. and Apostolic King of Hungary:

Count Paul Esterházy, Baron of Galántha, Viscount of Fraknó, Privy Councillor and Chamberlain, Chief of Section in the Ministry of the Imperial and Royal House and of Foreign Affairs, and Dr. Gustavus de Töry, Secretary of State in the Royal Hungarian Ministry of Justice;

Who, having communicated to each other their full powers, found to be in good and due form, have agreed as follows:

ARTICLE 1

Authors who are citizens or subjects of one of the two countries or their assigns shall enjoy in the other country, for their literary, artistic, dramatic, musical and photographic works (whether unpublished or published in one of the two countries) the same rights which the respective laws do now or may hereafter grant to natives.

The above provision includes the copyright control of mechanical musical reproductions.

ARTICLE 2

The enjoyment and the exercise of the rights secured by the present convention are subject to the performance of the conditions and formalities prescribed by the laws and regulations of the country where protection is claimed under the present convention; such enjoyment and such exercise are independent of the existence of protection in the country of origin of the work.

ARTICLE 3

The term of copyright protection granted by the present convention shall be regulated by the law of the country where protection is claimed.

ARTICLE 4

The present convention shall be ratified and the ratifications shall be exchanged at Washington as soon as possible.

ARTICLE 5

The present convention shall be put in force one month after the exchange of ratifications, and shall remain in force until the termination of a year from the day on which it may have been denounced.

In faith whereof the plenipotentiaries have signed the present convention in two copies, each in the English and Hungarian languages, and have affixed thereto their seals.

Done at Budapest, the 30th day of January, 1912.

[SEAL] RICHARD C. KERENS.

[SEAL] ESTERHÁZY PÁL.

[SEAL] TÖRY GUSZTÁV.

INTERNATIONAL CONVENTION RELATIVE TO THE PROTECTION OF LITERARY AND ARTISTIC WORKS, REVISING THAT SIGNED AT BERNE, SEPTEMBER 9, 1886, &c.¹

Signed at Berlin, November 13, 1908

His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India; His Majesty the German Emperor, King of Prussia, in the name of the German Empire; His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of Italy; His Majesty the Emperor of Japan; the President of the Republic of Liberia; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; His Serene Highness the Prince of Monaco; His Majesty the King of Norway; His Majesty the King of Sweden; the Federal Council of the Swiss Confederation; His Highness the Bey of Tunis;

Being equally animated by the desire to protect in as effective and uniform a manner as possible the rights of authors over their literary and artistic works,

Have resolved to conclude a convention for the purpose of revising the Convention of Berne of the 9th September, 1886, the Additional Article and the Final Protocol attached to the same convention, as well

¹Great Britain, Treaty Series, 1912, No. 19.

as the Additional Act and the Interpretative Declaration of Paris of the 4th May, 1896.

They have consequently appointed as their plenipotentiaries, that is to say:

His Majesty the King of the United Kingdom of Great Britain and Ireland, Emperor of India:

Sir Henry Bergne, formerly Head of the Commercial Department of the Foreign Office;

Mr. George Ranken Askwith, K. C., Assistant Secretary to the Board of Trade;

Count de Salis, Councillor of Embassy at Berlin;

His Majesty the German Emperor, King of Prussia:

His Excellency Dr. von Studt, Royal Prussian Minister of State;

His Excellency Dr. von Koerner, Privy Councillor, Director of Department in the Ministry for Foreign Affairs;

Dr. Dungs, Superior Privy Councillor of Regency, Reporting Councillor to the Ministry of Justice;

Dr. Goebel von Harrant, Privy Councillor of Legation, Reporting Councillor to the Ministry for Foreign Affairs;

M. Robolski, Superior Privy Councillor of Regency, Reporting Councillor to the Ministry of the Interior;

Dr. Kohler, Privy Councillor of Justice, Professor to the Faculty of Law at the University of Berlin;

Dr. Osterrieth, Professor, Secretary-General of the Association for the Protection of Industrial Property;

His Majesty the King of the Belgians:

The Count Della Faille de Leverghem, Councillor of Legation at Berlin;

M. J. de Borchgrave, Advocate at the Court of Appeal at Brussels, ex-Member of the Chamber of Representatives;

M. P. Wauwermans, Advocate at the Court of Appeal at Brussels, Member of the Chamber of Representatives;

His Majesty the King of Denmark:

M. J. H. de Hegermann-Lindencrone, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Denmark at Berlin;

His Majesty the King of Spain:

His Excellency M. Luis Polo de Bernabé, Ambassador Extraordinary and Plenipotentiary of His Majesty the King of Spain at Berlin;

M. Eugenio Ferraz y Alcala Galiano, Councillor of Embassy at Berlin;
The President of the French Republic:

His Excellency M. Jules Cambon, Ambassador Extraordinary and
Plenipotentiary of the French Republic at Berlin;

M. Ernest Lavisse, Member of the French Academy, Professor to the
Faculty of Letters at Paris, Director of the École Normale Supérieure;

M. Paul Hervieu, Member of the French Academy, President of the
Society of Authors and Dramatic Composers;

M. Louis Renault, Member of the Institute, Honorary Minister
Plenipotentiary, Professor to the Faculty of Law in Paris;

M. Fernand Gavarry, Minister Plenipotentiary of the First Class,
Director of Administrative and Technical Affairs at the Ministry for
Foreign Affairs;

M. Breton, Director of the National Office of Industrial Property;

M. Georges Lecomte, President of the Société des Gens de Lettres;

His Majesty the King of Italy:

His Excellency Commendatore Alberto Pansa, Ambassador Extraor-
dinary and Plenipotentiary of His Majesty the King of Italy at Berlin;

Commendatore Luigi Roux, Advocate, Senator;

Commendatore Samuele Ottolenghi, Director of the Branch for In-
tellectual Property;

Chevalier Emilio Venezian, Engineer, Inspector of Industrial Educa-
tion;

M. Augusto Ferrari, Advocate, Vice-President of the Italian Society
of Authors;

His Majesty the Emperor of Japan:

Dr. Mizuno Rentaro, Reporting Councillor to the Ministry of the
Interior;

M. Horiguchi Kumaichi, Second Secretary of Legation at Stockholm;

The President of the Republic of Liberia:

The Delegation of the German Empire and, in the name of the Dele-
gation, his Excellency Dr. von Koerner, Privy Councillor, a Director of
Department in the Ministry for Foreign Affairs;

His Royal Highness the Grand Duke of Luxemburg, Duke of
Nassau:

Dr. Count Hippolyte de Villers, Chargé d'Affaires of Luxemburg at
Berlin;

His Serene Highness the Prince of Monaco:

Baron de Rolland, President of the Superior Tribunal;

His Majesty the King of Norway:

M. Klaus Hoel, Chief of Department at the Ministry of Worship and Public Instruction;

His Majesty the King of Sweden:

Count Taube, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Sweden at Berlin;

Baron Peder-Magnus de Ugglas, Referendary to the Supreme Court; The Federal Council of the Swiss Confederation:

Dr. Alfred de Claparède, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation at Berlin;

M. W. Kraft, Assistant in the Federal Office for Intellectual Property;

His Highness the Bey of Tunis:

M. Jean Gout, Consul-General at the Ministry for Foreign Affairs in Paris;

Who, having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE 1

The contracting states are constituted into a Union for the protection of the rights of authors over their literary and artistic works.

ARTICLE 2

The expression "literary and artistic works" shall include any production in the literary, scientific or artistic domain, whatever may be the mode or form of its reproduction, such as books, pamphlets, and other writings; dramatic or dramatico-musical works, choreographic works and entertainments in dumb show, the acting form of which is fixed in writing or otherwise; musical compositions with or without words; works of drawing, painting, architecture, sculpture, engraving, and lithography; illustrations, geographical charts; plans, sketches, and plastic works relative to geography, topography, architecture or science.

Translations, adaptations, arrangements of music and other reproductions in an altered form of a literary or artistic work, as well as collections of different works, shall be protected as original works without prejudice to the rights of the author of the original work.

The contracting countries shall be bound to make provision for the protection of the above-mentioned works.

Works of art applied to industrial purposes shall be protected so far as the domestic legislation of each country allows.

ARTICLE 3

The present convention shall apply to photographic works and to works produced by a process analogous to photography. The contracting countries shall be bound to make provision for their protection.

ARTICLE 4

Authors who are subjects or citizens of any of the countries of the Union shall enjoy in countries other than the country of origin of the work, for their works, whether unpublished or first published in a country of the Union, the rights which the respective laws do now or may hereafter grant to natives, as well as the rights specially granted by the present convention.

The enjoyment and the exercise of these rights shall not be subject to the performance of any formality; such enjoyment and such exercise are independent of the existence of protection in the country of origin of the work. Consequently, apart from the express stipulations of the present convention, the extent of protection, as well as the means of redress secured to the author to safeguard his rights, shall be governed exclusively by the laws of the country where protection is claimed.

The country of origin of the work shall be considered to be: in the case of unpublished works, the country to which the author belongs; in the case of published works, the country of first publication; and in the case of works published simultaneously in several countries of the Union, the country the laws of which grant the shortest term of protection. In the case of works published simultaneously in a country outside of the Union and in a country of the Union, the latter country shall be considered exclusively as the country of origin.

By published works must be understood, for the purposes of the present convention, works copies of which have been issued to the public. The representation of a dramatic or dramatico-musical work, the performance of a musical work, the exhibition of a work of art, and the construction of a work of architecture shall not constitute a publication.

ARTICLE 5

Authors being subjects or citizens of one of the countries of the Union who first publish their works in another country of the Union shall have in the latter country the same rights as native authors.

ARTICLE 6

Authors not being subjects or citizens of one of the countries of the Union, who first publish their works in one of those countries, shall enjoy in that country the same rights as native authors, and in the other countries of the Union the rights granted by the present convention.

ARTICLE 7

The term of protection granted by the present convention shall include the life of the author and fifty years after his death.

Nevertheless, in case such term of protection should not be uniformly adopted by all the countries of the Union, the term shall be regulated by the law of the country where protection is claimed, and must not exceed the term fixed in the country of origin of the work. Consequently the contracting countries shall only be bound to apply the provisions of the preceding paragraph in so far as such provisions are consistent with their domestic laws.

For photographic works and works produced by a process analogous to photography, for posthumous works, for anonymous or pseudonymous works, the term of protection shall be regulated by the law of the country where protection is claimed, provided that the said term shall not exceed the term fixed in the country of origin of the work.

ARTICLE 8

The authors of unpublished works, being subjects or citizens of one of the countries of the Union, and the authors of works first published in one of those countries, shall enjoy, in the other countries of the Union, during the whole term of the right in the original work, the exclusive right of making or authorizing a translation of their works.

ARTICLE 9

Serial stories, tales, and all other works, whether literary, scientific, or artistic, whatever their object, published in the newspapers or periodicals

of one of the countries of the Union may not be reproduced in the other countries without the consent of the authors.

With the exception of serial stories and tales, any newspaper article may be reproduced by another newspaper unless the reproduction thereof is expressly forbidden. Nevertheless, the source must be indicated; the legal consequences of the breach of this obligation shall be determined by the laws of the country where protection is claimed.

The protection of the present convention shall not apply to news of the day or to miscellaneous information which is simply of the nature of items of news.

ARTICLE 10

As regards the liberty of extracting portions from literary or artistic works for use in publications destined for educational purposes, or having a scientific character, or for chrestomathies, the effect of the legislation of the countries of the Union and of special arrangements existing, or to be concluded, between them is not affected by the present convention.

ARTICLE 11

The stipulations of the present convention shall apply to the public representation of dramatic or dramatico-musical works and to the public performance of musical works, whether such works be published or not.

Authors of dramatic or dramatico-musical works shall be protected during the existence of their right over the original work against the unauthorized public representation of translations of their works.

In order to enjoy the protection of the present article, authors shall not be bound in publishing their works to forbid the public representation or performance thereof.

ARTICLE 12

The following shall be specially included among the unlawful reproductions to which the present convention applies: unauthorized indirect appropriations of a literary or artistic work, such as adaptations, musical arrangements, transformations of a novel, tale, or piece of poetry, into a dramatic piece and vice versa, &c., when they are only the reproduction of that work, in the same form or in another form, without essential alterations, additions, or abridgments, and do not present the character of a new original work.

ARTICLE 13

The authors of musical works shall have the exclusive right of authorizing (1) the adaptation of those works to instruments which can reproduce them mechanically; (2) the public performance of the said works by means of these instruments.

Reservations and conditions relating to the application of this article may be determined by the domestic legislation of each country in so far as it is concerned; but the effect of any such reservations and conditions will be strictly limited to the country which has put them in force.

The provisions of paragraph 1 shall not be retroactive, and consequently shall not be applicable in any country of the Union to works which have been lawfully adapted in that country to mechanical instruments before the coming into force of the present convention.

Adaptations made in virtue of paragraphs 2 and 3 of the present article, and imported without the authority of the interested parties into a country where they would not be lawful, shall be liable to seizure in that country.

ARTICLE 14

Authors of literary, scientific, or artistic works shall have the exclusive right of authorizing the reproduction and public representation of their works by cinematography.

Cinematograph productions shall be protected as literary or artistic works if, by the arrangement of the acting form or the combinations of the incidents represented, the author has given the work a personal and original character.

Without prejudice to the rights of the author of the original work the reproduction by cinematography of a literary, scientific, or artistic work shall be protected as an original work.

The above provisions apply to reproduction or production effected by any other process analogous to cinematography.

ARTICLE 15

In order that the authors of works protected by the present convention shall, in the absence of proof to the contrary, be considered as such, and be consequently admitted to institute proceedings against pirates before the courts of the various countries of the Union, it will be sufficient that their name be indicated on the work in the accustomed manner.

For anonymous or pseudonymous works the publisher whose name is indicated on the work shall be entitled to protect the rights belonging to the author. He shall be, without other proof, deemed to be the legal representative of the anonymous or pseudonymous author.

ARTICLE 16

Pirated works may be seized by the competent authorities of any country of the Union where the original work enjoys legal protection.

In such a country the seizure may also apply to reproductions imported from a country where the work is not protected, or has ceased to be protected.

The seizure shall take place in accordance with the domestic legislation of each country.

ARTICLE 17

The provisions of the present convention cannot in any way derogate from the right belonging to the government of each country of the Union to permit, to control, or to prohibit, by measures of domestic legislation or police, the circulation, representation, or exhibition of any works or productions in regard to which the competent authority may find it necessary to exercise that right.

ARTICLE 18

The present convention shall apply to all works which at the moment of its coming into force have not yet fallen into the public domain in the country of origin through the expiration of the term of protection.

If, however, through the expiration of the term of protection which was previously granted, a work has fallen into the public domain of the country where protection is claimed, that work shall not be protected anew in that country.

The application of this principle shall take effect according to the stipulations contained in special conventions existing, or to be concluded, to that effect between countries of the Union. In the absence of such stipulations, the respective countries shall regulate, each in so far as it is concerned, the manner in which the said principle is to be applied.

The above provisions shall apply equally in case of new accessions to the Union, and also in the event of the term of protection being extended by the application of Article 7.

ARTICLE 19

The provisions of the present convention shall not prevent a claim being made for the application of any wider provisions which may be made by the legislation of a country of the Union in favor of foreigners in general.

ARTICLE 20

The governments of the countries of the Union reserve to themselves the right to enter into special arrangements between each other, provided always that such arrangements confer upon authors more extended rights than those granted by the Union, or embody other stipulations not contrary to the present convention. The provisions of existing arrangements which answer to the above-mentioned conditions shall remain applicable.

ARTICLE 21

The International Office established under the name of the "Office of the International Union for the Protection of Literary and Artistic Works" shall be maintained.

That Office is placed under the high authority of the Government of the Swiss Confederation, which regulates its organization and supervises its working.

The official language of the Office shall be French.

ARTICLE 22

The International Office collects every kind of information relative to the protection of the rights of authors over their literary and artistic works. It arranges and publishes such information. It undertakes the study of questions of general interest concerning the Union, and, by the aid of documents placed at its disposal by the different administrations, edits a periodical publication in the French language on the questions which concern the objects of the Union. The governments of the countries of the Union reserve to themselves the power to authorize by common accord the publication by the Office of an edition in one or more other languages, if experience should show this to be requisite.

The International Office will always hold itself at the disposal of members of the Union with the view to furnish them with any special information which they may require relative to the protection of literary and artistic works.

The Director of the International Office shall make an annual report on his administration, which shall be communicated to all the members of the Union.

ARTICLE 23

The expenses of the Office of the International Union shall be shared by the contracting states. Until a fresh arrangement be made, they cannot exceed the sum of 60,000 fr. a year. This sum may be increased, if necessary, by the simple decision of one of the conferences provided for in Article 24.

The share of the total expense to be paid by each country shall be determined by the division of the contracting and acceding countries into six classes, each of which shall contribute in the proportion of a certain number of units, viz.:

1st class	25 units.
2nd "	20 "
3rd "	15 "
4th "	10 "
5th "	5 "
6th "	3 "

These coefficients are multiplied by the number of countries of each class, and the total product thus obtained gives the number of units by which the total expense is to be divided. The quotient gives the amount of the unit of expense.

Each country shall declare, at the time of its accession, in which of the said classes it desires to be placed.

The Swiss administration prepares the budget of the Office, superintends its expenditure, makes the necessary advances, and draws up the annual account which shall be communicated to all the other administrations.

ARTICLE 24

The present convention may be submitted to revisions in order to introduce therein amendments calculated to perfect the system of the Union.

Questions of this kind, as well as those which are of interest to the Union in other respects, shall be considered in conferences to be held successively in the countries of the Union by delegates of the said countries. The administration of the country where a conference is to

meet prepares, with the assistance of the International Office, the programme of the conference. The Director of the Office shall attend at the sittings of the conferences, and shall take part in the discussions without the right to vote.

No alteration in the present convention shall be binding on the Union except by the unanimous consent of the countries composing it.

ARTICLE 25

States outside the Union which make provision for the legal protection of the rights forming the object of the present convention may accede thereto on request to that effect.

Such accession shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

Such accession shall imply full adhesion to all the clauses and admission to all the advantages provided by the present convention. It may, nevertheless, contain an indication of the provisions of the Convention of the 9th September, 1886, or of the Additional Act of the 4th May, 1896, which they may judge necessary to substitute, provisionally at least, for the corresponding provisions of the present convention.

ARTICLE 26

Contracting countries shall have the right to accede to the present convention at any time for their colonies or foreign possessions.

They may do this either by a general declaration comprising in the accession all their colonies or possessions, or by specially naming those comprised therein, or by simply indicating those which are excluded.

Such declaration shall be notified in writing to the Government of the Swiss Confederation, who will communicate it to all the other countries of the Union.

ARTICLE 27

The present convention shall replace, in regard to the relations between the contracting states, the Convention of Berne of the 9th September, 1886, including the Additional Article and the Final Protocol of the same date, as well as the Additional Act and the Interpretative Declaration of the 4th May, 1896. These instruments shall remain in force in regard to relations with states which do not ratify the present convention.

The signatory states of the present convention may declare at the exchange of ratifications that they desire to remain bound, as regards any specific point, by the provisions of the conventions which they have previously signed.

ARTICLE 28

The present convention shall be ratified, and the ratifications exchanged at Berlin not later than the 1st July, 1910.

Each contracting party shall, as regards the exchange of ratifications, deliver a single instrument, which shall be deposited with those of the other countries in the archives of the Government of the Swiss Confederation. Each party shall receive in return a copy of the protocol of the exchange of ratifications signed by the plenipotentiaries who took part.

ARTICLE 29

The present convention shall be put in force three months after the exchange of ratifications, and shall remain in force for an indefinite period until the termination of a year from the day on which it may have been denounced.

Such denunciation shall be made to the Government of the Swiss Confederation. It shall only take effect in regard to the country making it, the convention remaining in full force and effect for the other countries of the Union.

ARTICLE 30

The states which shall introduce in their legislation the duration of protection for fifty years contemplated by Article 7, first paragraph, of the present convention, shall give notice thereof in writing to the Government of the Swiss Confederation, who will communicate it at once to all the other states of the Union.

The same procedure shall be followed in the case of the states renouncing the reservations made by them in virtue of Articles 25, 26 and 27.

In faith whereof the respective plenipotentiaries have signed the present convention, and have affixed thereto their seals.

Done at Berlin, the 13th day of November, 1908, in a single copy, which shall be deposited in the archives of the Government of the Swiss Confederation, and of which duly certified copies shall be transmitted by the diplomatic channel to the contracting countries.

For Great Britain:

- (L. S.) H. G. BERGNE.
- (L. S.) GEORGE R. ASKWITH.
- (L. S.) J. DE SALIS.

For Germany:

- (L. S.) DR. K. VON STUDT.
- (L. S.) VON KOERNER.
- (L. S.) DUNGS.
- (L. S.) GOEBEL VON HARRANT.
- (L. S.) ROBOLSKI.
- (L. S.) JOSEF KOHLER.
- (L. S.) OSTERRIETH.

For Belgium:

- (L. S.) COMTE DELLA FAILLE DE LEVERGHEM.
- (L. S.) JULES DE BORTHGRAVE.
- (L. S.) WAUVERMANS.

For Denmark:

- (L. S.) J. HEGERMANN-LINDENCRONE.

For Spain:

- (L. S.) LUIS POLO DE BERNABÉ.
- (L. S.) EUGENIO FERRAZ.

For France:

- (L. S.) JULES CAMBON.
- (L. S.) E. LAVISSE.
- (L. S.) PAUL HERVIEU.
- (L. S.) L. RENAULT.
- (L. S.) GAVARRY.
- (L. S.) G. BRETON.
- (L. S.) GEORGES LECOMTE.

For Italy:

- (L. S.) PANSÀ.
- (L. S.) LUIGI ROUX.
- (L. S.) SAMUELE OTTOLENGHI.
- (L. S.) EMILIO VENEZIAN.
- (L. S.) AVV. AUGUSTO FERRARI.

For Japan:

- (L. S.) MIZUNO RENTARÔ.
- (L. S.) HORIGUCHI KUMAICHI.

For the Republic of Liberia:

(L. S.) VON KOERNER.

For Luxemburg:

(L. S.) COMTE DE VILLERS.

For Monaco:

(L. S.) BON DE ROLLAND.

For Norway:

(L. S.) KLAUS HOEL.

For Sweden:

(L. S.) TAUBE.

(L. S.) P. M. AF UGGLAS.

For Switzerland:

(L. S.) ALFRED VON CLAPARÈDE.

(L. S.) W. KRAFT.

For Tunis:

(L. S.) JEAN GOUT.

RATIFICATIONS

(Belgium, Germany, Hayti,¹ Japan, Liberia, Luxemburg, Monaco, and Switzerland.)

Protocol of Deposit

In conformity with the stipulations of Article 28 of the revised Berne Convention for the Protection of Literary and Artistic Works, signed at Berlin the 13th November, 1908, and in consequence of the invitation addressed by the Government of the German Empire to the governments of the high contracting parties, the undersigned representatives have this day met together in order to proceed to the examination and deposit of ratifications.

Present:

Great Britain:

His Excellency Sir W. E. Goschen, Ambassador Extraordinary and Plenipotentiary of His Britannic Majesty at Berlin.

¹ While Hayti did not actually sign the convention of November 13, 1908, it accepted in advance the decisions arrived at by the conference held at Berlin.

Germany:

His Excellency Baron von Schoen, Secretary of State in the Department for Foreign Affairs.

His Excellency Dr. von Koerner, Privy Councillor, Director in the Department for Foreign Affairs.

Dr. Dungs, Superior Privy Councillor of Regency, Reporting Councillor to the Ministry of Justice.

Dr. Goebel von Harrant, Privy Councillor of Legation, Reporting Councillor to the Ministry for Foreign Affairs.

M. Robolski, Superior Privy Councillor of Regency, Reporting Councillor to the Ministry of the Interior.

Belgium:

Baron Greindl, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of the Belgians at Berlin.

Denmark:

M. Axel Nørgaard, Chargé d'Affaires of Denmark at Berlin.

Spain:

His Excellency M. Luis Polo de Bernabé, Ambassador Extraordinary and Plenipotentiary of His Majesty the King of Spain at Berlin.

France:

His Excellency M. Jules Cambon, Ambassador Extraordinary and Plenipotentiary of the French Republic at Berlin.

Hayti:

M. Fouchard, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Hayti at Berlin.

Italy:

His Excellency M. Alberto Pansa, Ambassador Extraordinary and Plenipotentiary of His Majesty the King of Italy at Berlin.

Japan:

His Excellency Baron Sutemi Chinda, Ambassador Extraordinary and Plenipotentiary of His Majesty the Emperor of Japan at Berlin.

Liberia:

His Excellency Dr. von Koerner, Privy Councillor, a Director of Department in the Ministry for Foreign Affairs (by delegation).

Luxemburg:

Dr. Count Hippolyte de Villers, Chargé d'Affaires of Luxemburg at Berlin.

Monaco:

Count Balny d'Avricourt, Envoy Extraordinary and Minister

Plenipotentiary of His Serene Highness the Prince of Monaco at Paris.

Norway:

M. de Ditten, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Norway at Berlin.

Sweden:

M. de Trolle, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Sweden at Berlin.

Switzerland:

Dr. Alfred de Claparède, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation at Berlin.

Tunis:

His Excellency M. Jules Cambon, Ambassador Extraordinary and Plenipotentiary of the French Republic at Berlin.

The following is the effect of the declarations made with regard to ratification by the representatives of the governments of the states forming the international Union:

1. Germany, Belgium, Hayti, Liberia, Luxemburg, Monaco, and Switzerland have ratified the revised Berne Convention of the 13th November, 1908, in its complete form.

2. Japan, having regard to Article 27 of the said convention has ratified it with the following reservations:

(1) So far as concerns the exclusive right of authors to make or to authorize the translation of their works, the Imperial Japanese Government, in lieu of acceding to Article 8 of the above-mentioned convention, will still remain bound by the provisions of Article 5 of the Berne Convention of the 9th September, 1886, as modified by Article 1 (3) of the Additional Act, signed at Paris, the 4th May, 1896.

(2) As regards the public performance of musical works, the Imperial Japanese Government, in lieu of acceding to Article 11 of the said convention of the 13th November, 1908, will remain bound by the stipulations of Article 9, paragraph 3, of the Berne Convention of the 9th September, 1886.

3. The governments of the under-mentioned states are not yet in a position to deposit their ratifications:

Denmark, Spain, France, Great Britain, Italy, Norway, Sweden, and Tunis.

The instruments of ratification of —

His Majesty the German Emperor, King of Prussia,

His Majesty the King of the Belgians,
The President of the Republic of Hayti,
His Majesty the Emperor of Japan,
The President of the Republic of Liberia,
His Royal Highness the Grand Duke of Luxemburg,
His Serene Highness the Prince of Monaco,
The Federal Council of the Swiss Confederation,

have consequently been produced, and, having been found in good and due form, have been entrusted to the hands of the Minister of the Swiss Confederation for the purpose of deposit in the archives of the government of that country, in conformity with Article 28, paragraph 2, of the revised Berne Convention of the 13th November, 1908.

The governments of the contracting countries which shall be in a position to ratify the aforesaid revised convention up to the 1st of July next, may forward the acts of ratification to the Department of Foreign Affairs of the German Empire until that date. The note by which such act shall be communicated to the department mentioned, and which shall contain, if the case arises, the reservations provided for by Article 27, paragraph 2, shall be considered as forming an integral part of the present protocol; it shall be included in all the copies thereof, as signed by the representative of the country in question, after which the copies shall be forwarded to the representatives of the signatory states by the aforesaid department. Countries which ratify up to the 1st July, 1910, the revised convention of the 13th November, 1908, shall equally have the power of making it operative on the 9th September, 1910.

Ratifications which come to hand after the 1st July, 1910, shall be notified to the Government of the Swiss Confederation, and by the latter to all the other contracting states. It is understood that governments of countries which ratify after the 1st July are at liberty to select the period ending the 9th September, 1910, for putting into force the revised convention in preference to the period of three months provided by Article 29 of that convention.

In witness whereof the present protocol relating to the declarations made and the deposits effected has been signed by all the representatives present.

Done at Berlin, the 9th June, 1910, in sixteen copies, in conformity with Article 28, paragraph 2, of the convention of the 13th November, 1908.

For Great Britain:	W. E. GOSCHEN.
For Germany:	SCHOEN. VON KOERNER. DUNGS. DR. GOEBEL V. HARCANT. ROBOLSKI.
For Belgium:	GREINDL.
For Denmark:	NÖRGAARD.
For Spain:	L. POLO DE BERNABÉ.
For France:	JULES CAMBON.
For Hayti:	M. FOUCHARD.
For Italy:	PANSA.
For Japan:	S. CHINDI.
For Liberia:	VON KOERNER.
For Luxemburg:	CTE. DE VILLERS.
For Monaco:	BALNY D'AVRICOURT.
For Norway:	V. DITTEN.
For Sweden:	TROLLE.
For Switzerland:	ALFRED DE CLAPARÈDE.
For Tunis:	JULES CAMBON.

Ratification by France and Tunis

FRENCH EMBASSY, Berlin, *June 30, 1910.*

M. le Baron,

In conformity with the provisions of paragraph 2, page 4, of the protocol of deposit of the ratifications of the revised Berne Convention, signed at Berlin the 13th November, 1908, I have the honor to transmit to your excellency herewith the ratification by France and by Tunis of the aforesaid convention.

The two governments, having regard to Article 27 of the said convention, have ratified it with the following reservation:

As regards works of art applied to industrial purposes, the French and Tunisian Governments will remain bound by the stipulations of the former conventions of the Union for the protection of literary and artistic works.

The convention will take effect in the two states from the 9th September, 1910.

Accept, &c.,
T. de BERCKHEIM.

His Excellency BARON DE SCHOEN,
Secretary of State,
Foreign Office, Berlin.

Ratification by Spain and Norway

SWISS LEGATION, London,
September 24, 1910.

M. le Secrétaire d'Etat,

By direction of my government, I have the honor to inform your excellency as follows:

1. By a note dated the 7th September, 1910, the Spanish Legation at Berne transmitted to the Federal Council the diplomatic instrument declaring that His Majesty the King of Spain, on the 5th of that month, approved and ratified in its complete form the revised Berne Convention of the 13th November, 1908, for the protection of literary and artistic works.

2. By a note dated the 4th September, 1910, the Ministry for Foreign Affairs of the Kingdom of Norway, forwarded to the Federal Council

the act whereby Norway ratifies the revised Berne Convention of the 13th November, 1908, adding that it will take effect as regards Norway from the 9th September, 1910, but with reservations, as provided for by Article 27 of the said convention, respecting Articles 2, 9, and 18 to the following effect:

(a) With respect to works of architecture, in lieu of acceding to the provisions of Article 2 of the above-mentioned convention stipulating that the expression "literary and artistic works" comprises works of architecture, the Royal Norwegian Government will remain bound by Article 4 of the Berne Convention of the 9th September, 1886, so far as it provides that the term "literary and artistic works" comprises "plans, sketches, and models relating to architecture."

(b) As regards the reproduction of articles appearing in newspapers and magazines, the Royal Norwegian Government, in lieu of acceding to Article 9 of the said revised convention of the 13th November, 1908, will remain bound by Article 7 of the Berne Convention of the 9th September, 1886.

(c) With respect to the application of the provisions of the revised Berne Convention to works which at the moment of its coming into force have not yet fallen within the public domain of their country of origin, the Royal Norwegian Government, in lieu of acceding to Article 18 of the said convention, will remain bound by Article 14 of the Berne Convention of the 9th September, 1886.

As a result of the foregoing communications, the revised Berne Convention of the 13th November, 1908, has been actually ratified by the twelve following states: Germany, Belgium, Spain, France, Hayti, Japan, Liberia, Luxemburg, Monaco, Norway, Switzerland, and Tunis, with reservations formulated in the case of France, Japan, Norway, and Tunis.

In requesting your excellency to be good enough to acknowledge the receipt of this communication, I have, &c.

PROBST.

Ratification by the United Kingdom

Declaration made by His Majesty's Chargé d'Affaires at Berne, June 14, 1912, in depositing the British ratification of the Berlin Convention of November 13, 1908.

In proceeding to deposit the ratification of His Britannic Majesty of

the Convention for the Protection of Literary and Artistic Works, signed at Berlin on the 13th November, 1908, the undersigned, His Britannic Majesty's Chargé d'Affaires at Berne, declares as follows, in the name of his government:

(a) In pursuance of Article 27 of the above-mentioned convention, it is declared that, as regards the application of the convention to works which at the time of its coming into force have not yet fallen into the public domain in their country of origin, His Britannic Majesty's Government, in lieu of acceding to Article 18 of the convention, remain bound by Article 14 of the convention signed at Berne on the 9th September, 1886, and by paragraph 4 of the Final Protocol of that convention of the same date, as amended by the Additional Act of Paris dated the 4th May, 1896.

(b) In pursuance of Article 26 of the above-mentioned convention, His Britannic Majesty's Government hereby accede to the convention for all British colonies and foreign possessions with the exception of the following:

India,	Union of South Africa,
Dominion of Canada,	The Channel Islands,
Commonwealth of Australia,	Papua, and
Dominion of New Zealand,	Norfolk Island.
Newfoundland,	

(c) His Britannic Majesty at the same time accedes to the convention for the Island of Cyprus and for the following British protectorates:

Bechuanaland Protectorate; East Africa Protectorate; Gambia Protectorate; Gilbert and Ellice Islands Protectorate; Northern Nigeria Protectorate; Northern territories of the Gold Coast; Nyasaland Protectorate; Northern Rhodesia; Southern Rhodesia; Sierra Leone Protectorate; Somaliland Protectorate; Southern Nigeria Protectorate; Solomon Islands Protectorate; Swaziland; Uganda Protectorate and Wei-hai Wei.

(d) His Britannic Majesty's Government, nevertheless, reserve the right to denounce separately the convention at any time in respect of any of the British colonies, foreign possessions, or protectorates for which they hereby accede (including the Island of Cyprus) or for which they may hereafter accede.

(e) Lastly, it is declared that the provisions of the convention will become operative in the United Kingdom and in the colonies, foreign

possessions, and protectorates (including the Island of Cyprus), to which the above declaration of accession applies, on the 1st July next.

R. H. CLIVE.

Berne, *June 14, 1912.*

ACCESSION

Portugal (and Portuguese Colonies), March 29, 1911.

EXTRADITION TREATY BETWEEN THE REPUBLIC OF SALVADOR AND THE REPUBLIC OF MEXICO ¹

Signed in the City of Guatemala, January 22, 1912; ratified July 27, 1912

The Republic of Salvador and the United States of Mexico, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within their respective territories and jurisdictions, that persons guilty of crime should be reciprocally delivered up, have resolved to conclude an extradition treaty and have named as their plenipotentiaries respectively:

The President of the Republic of Salvador: Dr. Francisco A. Lima, Chargé d'Affaires in Guatemala; and

The President of the United States of Mexico: Licentiate Victoriano Salado Alvarez, Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico in Guatemala and Salvador.

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

The high contracting parties bind themselves to surrender to each other those persons who, having been accused of any of the crimes indicated in the following article or having been convicted of any of said crimes, by a competent authority, shall have taken refuge in the territory of the other state.

¹ *Bolétin del Ministerio de Relaciones Exteriores de El Salvador, Año II, No. VI, pp. 20-24, No. VII, p. 21.*

When the commission of the crime has taken place outside of the territory of the contracting parties, the requisition for extradition shall be given due course if the laws of the requesting country authorize the prosecution of that crime committed abroad.

ARTICLE II

With the exception of those crimes enumerated in Article IV, extradition shall be granted for all common crimes which, in accordance with the laws in force in the contracting states at the time the demand for surrender is made, have been punished or are punished with restriction of personal liberty (imprisonment) for more than one year.

Extradition shall also be granted for an attempt to commit or complicity in said crimes when either one or the other have been punished or may be punished with restriction of personal liberty (imprisonment) for more than one year in conformity with the laws of the two countries.

The determination of minority, in those crimes which are based on such *status*, shall be made in accordance with the laws of the state demanding the extradition.

ARTICLE III

Extradition may be granted in the discretion of the state from which it is requested, even for those crimes not embraced in the preceding article, when so permitted by the laws in force in the contracting states at the time the request is made

ARTICLE IV

Extradition shall not be granted:

- 1st. For misdemeanors.
- 2nd. For crimes committed through the agency of the press.
- 3rd. For crimes which fall under the jurisdiction of military authorities.
- 4th. For political offenses or for acts connected therewith.

Extradition shall, notwithstanding, be granted, even if the accused alleges a political motive or end, if the act for which he is prosecuted constitutes principally a common crime.

The attempt against the life of the chief or sovereign of one of the contracting states or against the members of their respective families, or against the minister of the state, shall not be held to constitute a political

crime, nor connected therewith, if said attempt should consist in homicide or poisoning in any punishable degree.

ARTICLE V

If the person whose extradition is requested is being prosecuted criminally or is under arrest for the commission of a crime in the country wherein he has taken refuge, his surrender may be deferred until the final disposition of the case or until the term of the sentence imposed on him has expired.

No civil or commercial action brought against the person whose extradition is requested shall be any obstacle to the granting of the same; but in such case his surrender may be deferred if the state on whom the demand is made is of the opinion that by his absence the interests of his creditors would be seriously damaged.

ARTICLE VI

Extradition may be refused if, in accordance with the laws of either of the two states, the prosecution or the penalty is barred by the statute of limitations.

ARTICLE VII

The person whose extradition has been demanded shall not be arrested for any other act which he may have committed before his surrender, unless said act constitutes an offense connected with that for which his extradition is requested and is proved by the same evidence on which the demand for extradition is based, or if said person, after being released and having had an opportunity to leave the country wherein he was arrested, shall have remained therein for over two months without having made use of that opportunity.

ARTICLE VIII

When the person whose extradition is requested has been accused of a capital crime or has been sentenced to death, the government applied to may ask, on granting the extradition, that said penalty be commuted for the next inferior penalty, through a pardon which shall be granted in the manner prescribed by the laws of the demanding country.

ARTICLE IX

The demand for extradition must be presented through the diplomatic agents of the high contracting parties respectively, and in default thereof through their consular officials.

Extradition shall be granted on presentation of a judgment sentencing the accused, or of a warrant of arrest, or any other order, emanating from the proper authorities, subjecting the accused to judicial punishment, provided these documents contain the necessary requisites to show the nature and seriousness of the offense which has actuated the demand.

The documents above referred to shall be presented either in the original or by certified copy thereof, as the laws of the demanding government may provide, and shall be accompanied with the text of the laws applied or applicable to the case, and, if possible, with the description of the person claimed or some other data which may be used to prove his identity.

ARTICLE X

In case of urgency the provisional arrest of the accused may be granted on notice, given, even by telegraph, by one of the two governments or through its diplomatic representative to the Minister of Foreign Relations of the other, of the existence of some of the documents referred to in the preceding article.

In such case, the person arrested shall be released if, at the expiration of three months from the date of his arrest, or of a longer period of time which the government applied to may legally determine, sufficient proof to warrant the extradition has not been presented.

ARTICLE XI

If the person claimed by one of the contracting parties should also be claimed by a third state, preference shall be given to the demand based on the offense which the state applied to shall regard as the more serious one.

If the offenses should be deemed equally serious, preference shall be given to the demand bearing the earlier date.

ARTICLE XII

The money and articles found in the possession of the fugitive at the time of his arrest shall be secured and delivered to the demanding state.

The money and articles legally belonging to the person arrested, even if found in possession of some other person, shall be delivered, if, after the arrest of the accused, they should come to the hands of the authorities.

The delivery shall not be confined to the articles secured by the commission of the offense for which extradition is demanded, but shall extend to all such articles as may serve to prove the crime, and said delivery shall be made even when extradition cannot take place by reason of the escape or death of the accused.

The rights of third parties in the articles seized shall, however, be protected, provided they are not implicated in the crime, and said articles shall be restored gratuitously at the end of the trial.

ARTICLE XIII

Extradition shall be allowed by way of transit through the respective territories of the contracting states of those prisoners not belonging to the country through whose territory they pass, by the simple presentation through diplomatic channels of some of the justificative documents, referred to in Article IX of this treaty, either in the original or by certified copy, provided no serious reasons of public policy prevent its being granted, and the offense is not of a political character.

This demand may be made, even by telegraph, from one government to another through their diplomatic agents, respectively, disclosing the offense for which extradition has been asked and the documents on which the demand is based. The government applied to shall order the prisoner to be received and held in custody; but surrender shall not be made until the documents referred to in the first paragraph of this article are presented to said government. If, at the expiration of three months, this requisite has not been complied with, the release of the prisoner shall be ordered.

ARTICLE XIV

If in accordance with the laws in force in the state to which the accused belongs, said accused person must undergo trial for infractions committed in the other state, the government of the latter shall furnish all the information and documents, deliver the articles constituting the *corpus delicti*, and endeavor to provide all other data necessary for the good understanding and disposition of the case.

ARTICLE XV

When in a criminal action, not of a political nature, one of the two governments shall deem it necessary to take the testimony of witnesses residing in the territory of the other state, or carry out some other judicial process, letters rogatory shall be sent to this effect through the diplomatic channels, which shall be complied with in accordance with the laws of the country to which they are sent.

ARTICLE XVI

When the appearance of a witness shall be deemed necessary, the government of the state wherein such witness resides shall invite him to appear.

In such case, the demanding country shall furnish him beforehand with the amount of money necessary to pay his traveling expenses both ways, and for his stay at the place where he is to be examined.

No witness of whatever nationality, who, on being invited or summoned to one of the two countries, shall voluntarily appear before the judicial authorities of the other country, shall be arrested or prosecuted for acts committed or sentences rendered against him previously in any criminal or civil action, nor for complicity in the acts for which the proceedings wherein he appears as a witness have been instituted.

ARTICLE XVII

When an order or judgment issuing from the authorities of one of the contracting states in a criminal, but not political, proceeding, is to be notified to a person residing in the other state, the document shall be brought to his notice through the diplomatic channels in accordance with the laws of the state applied to, and the original of said notice, duly authenticated, shall be returned through the same channels to the demanding state.

ARTICLE XVIII

When in criminal, but not political, proceedings instituted in one of the two states, the execution of process or the presentation of some documents shall be deemed necessary, demand for the same shall be made through the diplomatic channels, which shall be granted in due course, unless there be reasons to the contrary, but in any case, with the obligation to return them.

ARTICLE XIX

The expenses caused by the demands for extradition and the letters rogatory shall be borne by the demanding government.

ARTICLE XX

The contracting governments agree that the differences which may arise as to the interpretation or the carrying out of this treaty or in regard to the consequences of its violation shall, after exhausting all means for the direct and amicable settlement of the same, be submitted to the decision of arbitral commissions whose award shall be binding on both states.

The members of these commissions shall be appointed by common agreement between the two governments. Should these two governments fail to reach an agreement in this respect, each party shall designate one arbiter and the two arbiters shall choose an umpire.

The rules of procedure shall be fixed in each case by the contracting parties, and in default thereof the arbitral commission is hereby empowered to determine the same prior to the discharge of its duties.

ARTICLE XXI

The present treaty shall remain in force for the period of five years, beginning from the date of the exchange of ratifications.

In case neither of the contracting parties notifies the other twelve months before the expiration of said period of its intention to terminate this treaty, it shall continue in force for five years, and so on for consecutive periods of five years duration.

This convention shall be ratified and the ratifications exchanged in the city of Mexico or in the city of San Salvador as soon as possible.

In witness whereof, the respective plenipotentiaries have signed the present treaty and affixed their seals thereto.

Done in duplicate in the city of Guatemala on the twenty-second day of January, nineteen hundred and twelve.

(Signed) FRANCISCO A. LIMA.

(Signed) V. SALADO ALVAREZ.

AN ACT TO GIVE EFFECT TO THE CONVENTION BETWEEN THE GOVERNMENTS OF THE UNITED STATES, GREAT BRITAIN, JAPAN, AND RUSSIA FOR THE PRESERVATION AND PROTECTION OF THE FUR SEALS AND SEA OTTER WHICH FREQUENT THE WATERS OF THE NORTH PACIFIC OCEAN, CONCLUDED AT WASHINGTON JULY SEVENTH, NINETEEN HUNDRED AND ELEVEN ¹

Approved August 24, 1912

Whereas the plenipotentiaries of the United States, Great Britain, Japan, and Russia did, on the seventh day of July, anno Domini nineteen hundred and eleven, enter into a convention for the preservation and protection of the fur seals and sea otter which frequent the waters of the north Pacific Ocean, which convention was subsequently ratified by the Governments of the United States, Great Britain, Japan, and Russia and the exchange of ratifications thereof was effected on the twelfth day of December, nineteen hundred and eleven: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no citizen of the United States, nor person owing duty of obedience to the laws or the treaties of the United States, nor any of their vessels, nor any vessel of the United States, nor any person belonging to or on board of such vessel, shall kill, capture, or pursue, at any time or in any manner whatever, any fur seal in the waters of the north Pacific Ocean north of the thirtieth parallel of north latitude and including the seas of Bering, Kamchatka, Okhotsk, and Japan; nor shall any such person or vessel kill, capture, or pursue sea otter in any of the waters mentioned beyond the distance of three miles from the shore line of the territory of the United States.

SEC. 2. That no citizen of the United States, nor person above described in the first section, shall equip, use, or employ, or furnish aid in equipping, using, or employing, or furnish supplies to any vessel used or employed, or to be used or employed, in carrying on or taking part in pelagic sealing or in sea-otter hunting in said waters, nor shall any of their vessels nor any vessel of the United States be so used or

¹ Public — No. 320.

employed; and no person or vessel shall use any of the ports or harbors of the United States, or any part of the territory of the United States, for any purposes whatsoever connected with the operations of pelagic sealing or sea-otter hunting in the waters named in the first section of this Act; and no vessel which is engaged or employed, or intended to be engaged or employed, for or in connection with pelagic sealing or sea-otter hunting in such waters shall use any of the ports or harbors or any part of the territory of the United States for any purpose whatsoever.

SEC. 3. That the provisions of the first and second sections of this Act shall not apply to Indians, Aleuts, or other aborigines dwelling on the American coast of the waters mentioned in the first section of this Act who carry on pelagic sealing in canoes or undecked boats propelled wholly by paddles, oars, or sails, and not transported by or used in connection with other vessels, and manned by not more than five persons each, in the way hitherto practiced by the said Indians, Aleuts, or other aborigines, and without the use of firearms: *Provided, however,* That the exception made in this section shall not apply to Indians, Aleuts, or other aborigines in the employment of other persons or who shall kill, capture, or pursue fur seals or sea otters under contract to deliver the skins to any person.

SEC. 4. That the importation or bringing into territory of the United States, by any person whatsoever, of skins of fur seals or sea otters taken in the waters mentioned in the first section of this Act, or of skins identified as those of the species known as *Callorhinus alascanus*, *Callorhinus ursinus*, and *Callorhinus kurilensis*, or belonging to the American, Russian, or Japanese herds, whether raw, dressed, dyed, or manufactured, except such as have been taken under the authority of the respective parties to said convention, to which the breeding grounds of such herds belong, and have been officially marked and certified as having been so taken, is hereby prohibited; and all such articles imported or brought in after this Act shall take effect shall not be permitted to be exported, but shall be seized and forfeited to the United States.

SEC. 5. That the President shall have power to make regulations to carry this Act and the said convention into effect, and from time to time to add to, modify, amend, or revoke such regulations, as in his judgment may seem expedient. It shall be the duty of the Secretary of Commerce and Labor, under the direction of the President, to see

that the said convention, the provisions of this Act, and the regulations made thereunder are executed and enforced; and all officers of the United States engaged in the execution and enforcement of this Act are authorized and directed to co-operate with the proper officers of any of the other parties to the said convention in taking such measures as may be appropriate and available under the said convention, this Act, or the regulations made thereunder for the purpose of preventing pelagic sealing as in this Act prohibited.

SEC. 6. That every person guilty of a violation of any of the provisions of said convention, or of this Act, or of any regulation made thereunder, shall, for each offense, be fined not less than two hundred dollars or more than two thousand dollars, or imprisoned not more than six months, or both; and every vessel, its tackle, apparel, furniture, and cargo, at any time used or employed in violation of this Act, or of the regulations made thereunder, shall be forfeited to the United States.

SEC. 7. That if any vessel shall be found within the waters to which this Act applies, having on board fur-seal skins or sea-otter skins, or bodies of seals or sea otters, or apparatus or implements for killing or taking seals or sea otter, it shall be presumed that such vessel was used or employed in the killing of said seals or sea otters, or that said apparatus or implements were used in violation of this Act, until the contrary is proved to the satisfaction of the court, in so far as such vessel, apparatus, and implements are subject to the jurisdiction of the United States.

SEC. 8. That any violation of the said convention, or of this Act, or of the regulations thereunder, may be prosecuted either in the district court of Alaska, or in any district court of the United States in California, Oregon, or Washington.

SEC. 9. That it shall be the duty of the President to cause a guard or patrol to be maintained in the waters frequented by the seal herd or herds and sea otter, in the protection of which the United States is especially interested, composed of naval or other public vessels of the United States designated by him for such service; and any officer of any such vessel engaged in such service and any other officers duly designated by the President may search any vessel of the United States, in port, or in territorial waters of the United States, or on the high seas, when suspected of having violated, or being about to violate, the provisions of said convention, or of this Act, or of any regulation made thereunder, and may seize such vessel and the officers and crew thereof,

and bring them into the most accessible port of the Territory or of any of the States mentioned in the eighth section of this Act for trial.

SEC. 10. That any vessel or person described in the first section of this Act offending or being about to offend against the prohibitions of the said convention, or of this Act, or of the regulations made thereunder, may be seized and detained by the naval or other duly commissioned officers of any of the parties to the said convention other than the United States, except within the territorial jurisdiction of one of the other of said parties, on condition, however, that when such vessel or person is so seized and detained by officers of any party other than the United States such vessel or person shall be delivered as soon as practicable at the nearest point to the place of seizure, with the witnesses and proofs necessary to establish the offense so far as they are under the control of such party, to the proper official of the United States, whose courts alone shall have jurisdiction to try the offense and impose the penalties for the same: *Provided, however,* That the said officers of any party to said convention other than the United States shall arrest and detain vessels and persons, as in this section specified, only after such party, by appropriate legislation or otherwise, shall have authorized the naval or other officers of the United States duly commissioned and instructed by the President to that end to arrest, detain, and deliver to the proper officers of such party vessels and subjects under the jurisdiction of that Government offending against said convention or any statute or regulation made by that Government to enforce said convention. The President of the United States shall determine by proclamation when such authority has been given by the other parties to said convention, and his determination shall be conclusive upon the question; and such proclamation may be modified, amended, or revoked by proclamation of the President whenever, in his judgment, it is deemed expedient.

SEC. 11. That from and after the approval of this Act all killing of fur seals on the Pribilof Islands, or anywhere within the jurisdiction of the United States in Alaska, shall be suspended for a period of five years, and shall be, and is hereby, declared to be unlawful; and all punishments and penalties heretofore enacted for the illegal killing of fur seals shall be applicable and inflicted upon offenders under this section: *Provided,* That this prohibition shall not apply to the annual killing on the Pribilof Islands of such male seals as are needed to supply food, clothing, and boat skins for the natives on the islands, as is provided for

in article eleven of said convention; the skins of all seals so used for food shall be preserved and annually sold by the Government, and proceeds of such annual sales shall be covered into the Treasury of the United States: *Provided further*, That at the expiration of the said five years' suspension of all commercial killing as above provided, said killing may be resumed under authority of the Secretary of Commerce and Labor: *Provided, however*, That the number of three-year-old males selected from among the finest and most perfect seals of that age found on the hauling grounds, to be reserved for breeding purposes, in each year ending August first, shall not be fewer than the following: In nineteen hundred and seventeen, and in each year thereafter until nineteen hundred and twenty-six, inclusive, five thousand. The Secretary of Commerce and Labor, or his authorized agents, shall have authority to receive on behalf of the United States any and all fur-seal skins taken as provided in the thirteenth and fourteenth articles of said convention and tendered for delivery by the Governments of Japan and Great Britain in accordance with the terms of said articles; and all skins which are or shall become the property of the United States from any source whatsoever shall be sold by the Secretary of Commerce and Labor in such market, at such times, and in such manner as he may deem most advantageous; and the proceeds of such sale or sales shall be paid into the Treasury of the United States. The Secretary of Commerce and Labor shall likewise have authority to deliver to the authorized agents of the Canadian Government and the Japanese Government the skins to which they are entitled under the provisions of the tenth article of said convention; to pay to Great Britain and Japan such sums as they are entitled to receive, respectively, under the provisions of the eleventh article of said convention; to retain such skins as the United States may be entitled to retain under the provisions of the eleventh article of said convention; and to do or perform, or cause to be done or performed, any and every act which the United States is authorized or obliged to do or perform by the provisions of the tenth, eleventh, thirteenth, and fourteenth articles of said convention; and to enable the Secretary of Commerce and Labor to carry out the provisions of the said eleventh article there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of four hundred thousand dollars.

SEC. 12. That the term "pelagic sealing" where used in this Act shall be taken to mean the killing, capturing, or pursuing in any manner whatsoever of fur seals while the same are in the water. The word

"person" where used in this Act shall extend and be applied to partnerships and corporations.

SEC. 13. That this Act shall take effect immediately, and shall continue in force until the termination of the said convention.

PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA
PRESCRIBING PANAMA CANAL TOLL RATES

No. 1225. November 13, 1912

I, WILLIAM HOWARD TAFT, President of the United States of America, by virtue of the power and authority vested in me by the Act of Congress, approved August twenty-fourth, nineteen hundred and twelve, to provide for the opening, maintenance, protection and operation of the Panama Canal and the sanitation and government of the Canal Zone, do hereby prescribe and proclaim the following rates of toll to be paid by vessels using the Panama Canal:

1. On merchant vessels carrying passengers or cargo one dollar and twenty cents (\$1.20) per net vessel ton — each one hundred (100) cubic feet — of actual earning capacity.
2. On vessels in ballast without passengers or cargo forty (40) per cent less than the rate of tolls for vessels with passengers or cargo.
3. Upon naval vessels, other than transports, colliers, hospital ships and supply ships, fifty (50) cents per displacement ton.
4. Upon army and navy transports, colliers, hospital ships and supply ships one dollar and twenty cents (\$1.20) per net ton, the vessels to be measured by the same rules as are employed in determining the net tonnage of merchant vessels.

The Secretary of War will prepare and prescribe such rules for the measurement of vessels and such regulations as may be necessary and proper to carry this proclamation into full force and effect.

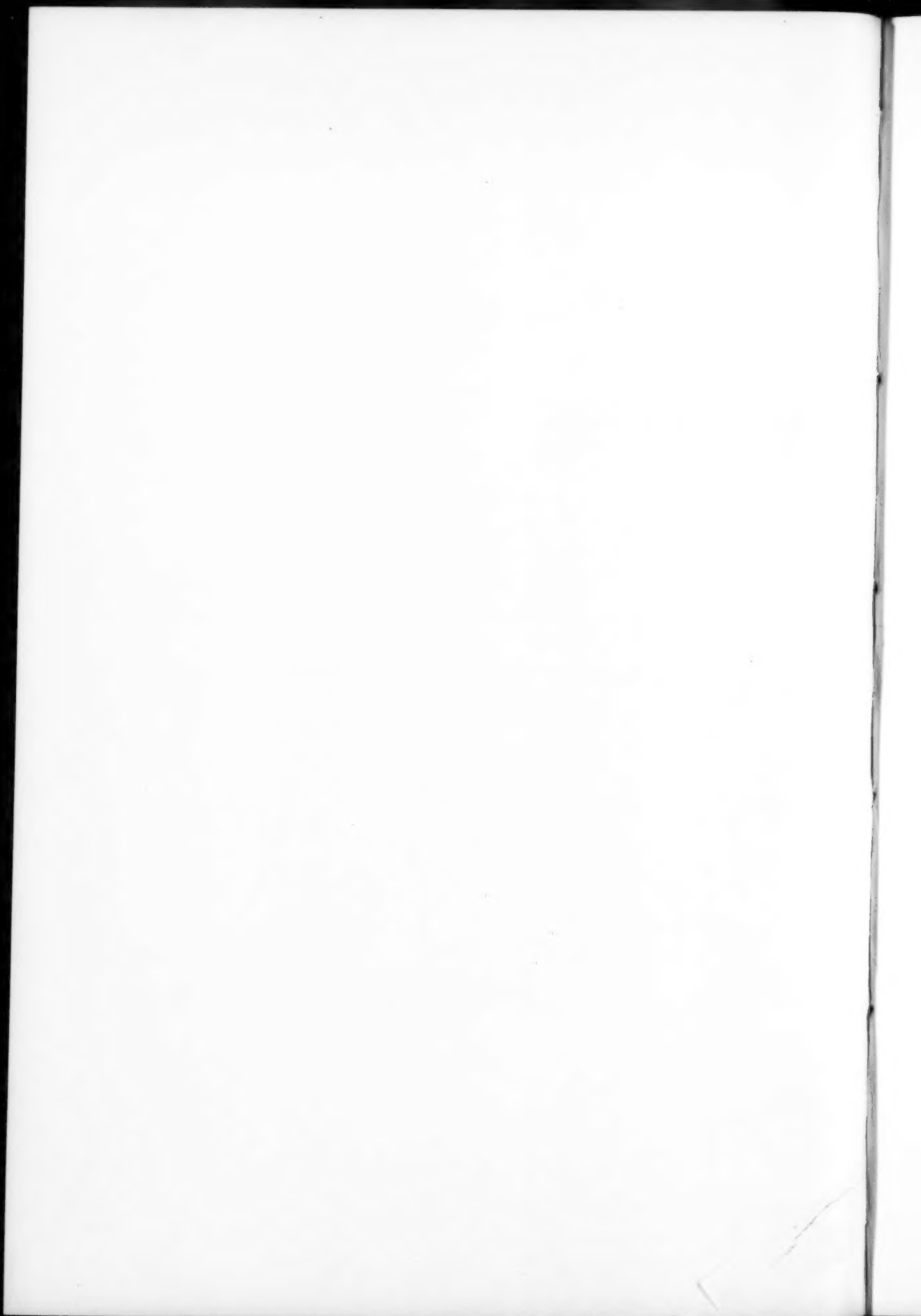
In Witness Whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this thirteenth day of
November in the year of our Lord one thousand nine
[SEAL.] hundred and twelve and of the independence of the
United States the one hundred and thirty-seventh.

WM. H. TAFT.

By the President:

P. C. KNOX,
Secretary of State.



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PROJECT DRAFTED BY THE INSTITUTE OF INTERNATIONAL LAW FOR THE REGULATION OF AÉROSTATS AND WIRELESS TELEGRAPHY

(Session at Ghent, September 24, 1906)

*Preliminary Provisions*¹

Art. 1. The air is free. States have no authority over it, in time of peace or in time of war, other than that which is necessary for their own preservation.

Art. 2. In the absence of special provisions, the rules which apply to ordinary telegraphic correspondence apply to wireless telegraphic correspondence.

FIRST PART

In Time of Peace

Art. 3. Every state has the power, in so far as it is necessary for its safety, to forbid the passage of Hertzian waves over its territory and its territorial waters, and to such height as may be advisable, whether these waves proceed from a government or a private apparatus placed on land, on board a vessel or in a balloon.

Art. 4. When correspondence by wireless telegraph is forbidden, the government must immediately inform the other governments of such prohibition.

SECOND PART

In Time of War

Art. 5. The rules in effect for times of peace apply, in principle, to times of war.

Art. 6. Belligerents may prevent the sending of waves, even by a neutral subject, on the high seas, in the zone which corresponds to the sphere of action of their military operations.

¹ Translated from *Annuaire de l'Institut de Droit International*, 1906, p. 327.

Art. 7. Individuals who, in spite of the belligerent's prohibition, persist in transmitting or receiving despatches by wireless telegraph between the various sections of an army or of a belligerent territory, are, if captured, not considered spies, but treated as prisoners of war. Not so, however, if the correspondence is carried on under false pretenses.

Bearers of despatches transmitted by wireless telegraph are classed as spies when they employ dissimulation or ruses.

Neutral vessels and balloons which, by their communications with the enemy, may be considered as having put themselves at his service, as well as their despatches and apparatus, may be confiscated. Neutral subjects, vessels, and balloons, if it is not proved that their correspondence was intended to furnish the enemy with information concerning the conduct of hostilities, may be removed from the zone of operations and their apparatus seized and sequestered.

Art. 8. A neutral state is not obliged to forbid the passage above its territory of Hertzian waves whose destination is a country which is at war.

Art. 9. It is the right and the duty of a neutral country to close or to take charge of the establishment of a belligerent state, which it had authorized to operate in its territory.

Art. 10. Belligerents must immediately notify neutral governments whenever they prohibit communication by wireless telegraph.

DRAFT CONVENTION ON THE JURIDICAL REGULATION OF AÉROSTATS ¹

By M. Paul Fauchille

FIRST PART

Regulation of Aérostats in Time of Peace

CHAPTER I. *Aérostats*

1. (Art. 1.) Aérostats are either public or private. Public aérostats are either military or civil.

Aérostats assigned by the state to military service and under the command of an army or naval officer in uniform are considered military aérostats. All military aérostats must have in plain sight on their envelope a distinctive mark showing their character.

¹ *Revue Juridique Internationale de la Locomotion Aérienne*, Vol. II, p. 206.

Aërostats assigned to the civil service of the state and under the orders of a duly commissioned official are considered public civil aërostats. They shall have in plain sight a mark indicative of their character.

2. (Art. 2.) Every aërostat must have a nationality. The nationality of public aërostats is that of the state in whose service they are engaged. Private aërostats are of the nationality of their owners.

3. (Art. 3.) Every aërostat must be registered upon a list drawn up by the public authorities of the state to which it belongs, or of the country where its owner lives.

The list shall indicate the name and kind of aërostat and the address of its owner.

The place of registration and the authority in charge is fixed by the laws of each state.

The different states shall communicate to each other the lists of registered aërostats.

4. (Art. 4.) Every aërostat must have riveted to its car an identification plate giving the name and address of the owner, the name of its constructor and the manufacturer's number.

It shall carry moreover, in plain sight upon its envelope: (1) a letter corresponding to the country in which it was listed; (2) a letter corresponding to the district in which it was registered; (3) a figure corresponding to its number on the registration list.

If an aërostat is not of the nationality of the country in which it was listed, it shall carry, in addition, the letter of the country of its nationality.

The national flag shall indicate the public character of aërostats. On military aërostats this flag shall be in the shape of a streamer.

CHAPTER II. *Navigation of Aërostats*

5. (Art. 5.) In order to be allowed to navigate in the air, every private aërostat must have a flying permit indicating its nationality and the essential points of its equipment.

National regulations in each state shall determine the conditions under which flying permits shall be given after a trial flight.

A permit given in one of the contracting states shall be valid in the other states.

The competent authorities shall have the right to examine at all times aërostats which have permission to navigate. The flying permit shall

be withdrawn from aërostats which cease to fulfil the conditions requisite for navigation.

6. (Art. 6.) Every pilot of a private aërostat must be provided with a license granted by the competent authority after examination.

There shall be separate licenses for non-dirigible balloons, for dirigible balloons and for aëroplanes.

The license given for one class of aërostat cannot serve for the pilot of an aërostat belonging to another class. The same pilot may be granted licenses for different classes.

A pilot must possess at least the following qualifications in order to obtain a license: (1) he must be more than 18 years of age; (2) he must have good eyesight; (3) he must not have been convicted of crime or misdemeanor.

Licenses granted in one of the contracting countries are valid in the other countries.

A foreigner as well as a national may obtain a flying license.

7. (Art. 7.) Air navigation is free. Nevertheless the underlying states possess the rights necessary for self-preservation; that is to say, for their own security and the security of the persons and the property of their inhabitants.

8. (Art. 8.) To preserve their right of self-preservation, states may close certain portions of the atmosphere to navigation. They possess in particular the right to prohibit navigation over or around fortified works.

The sections of territory over which navigation is prohibited shall be designated by marks which aëronauts can see.

9. (Art. 9.) Aërostats may freely navigate over the high seas and unowned territories.

10. (Art. 10.) Military and police aërostats may not cross the frontiers of their country, except upon permission of the state over which they desire to navigate and in which they intend to land.

11. (Art. 11.) Private aërostats are forbidden to carry explosives, arms and munitions of war in international flights. The same prohibition applies in principle to cameras and wireless telegraph apparatus. This prohibition may be removed by the authorities of the territories over which the aërostats navigate.

12. (Art. 12.) Aërostats are likewise forbidden to carry prohibited merchandise, or merchandise subject to a monopoly, or merchandise subject to customs duties on very small quantities and which must be determined restrictively.

13. (Art. 13.) Acts committed on board public and private aërostats, in whatever portion of space they may be, fall under the jurisdiction of the state to which the aërostats belong and are tried according to the laws of that state.

Nevertheless, acts which threaten the right of self-preservation of the underlying state or which cause damage to its territory or to the property or persons of its inhabitants, must be tried by the courts and laws of the territorial state.

14. (Art. 14.) In case of collision of aërostats of the same nationality in any part of the atmosphere whatsoever, the courts and laws of the country to which they belong have jurisdiction to fix and settle the responsibility, and not the courts and laws of the underlying state. When the two aërostats are of different nationalities, the same rules will be followed in determining which of the two systems of national legislation is applicable as in the case of two colliding vessels of different nationalities on the high seas.

15. (Art. 15.) An international regulation annexed to the present convention, which shall go into effect at the same time as does the convention and remain in force until it is modified by common consent, shall determine the specific rules to prevent collisions and to facilitate the safe navigation of aërostats. These rules shall be based upon the practice followed in maritime navigation.

CHAPTER III. *Departure and Landing of Aërostats*

16. (Art. 16.) Every private aërostat must have on board and produce whenever requested: (1) its navigation permit; (2) its pilot's license; (3) if carrying freight, a manifest drawn up as provided in the next article; (4) a ship's book in which shall be written the names of the pilot and of the crew, the names, occupations and residences of the passengers, and the interesting events of the voyage.

Public aërostats are required to have only the ship's book.

17. (Art. 17.) No formality is required of aërostats which leave the country without freight.

On the contrary, aërostats loaded with freight must provide themselves with a manifest drawn up at the place of loading and certified by the proper fiscal authority.

The fiscal police and agents shall have the right in all cases to search aërostats before their departure.

18. (Art. 18.) Every aërostat which desires to land shall make known its intention by a special signal, determined in the regulations annexed to the convention.

19. (Art. 19.) Every state may prohibit the landing of aërostats in certain sections of its territory, to be designated by marks which aëronauts can see.

Aërostats carrying freight may land only at specified points.

20. (Art. 20.) States possess the right to prohibit the landing in their territory of aërostats from an infected country, under the same conditions as apply to vehicles on land and vessels on the sea.

21. (Art. 21.) Immediately after the landing of an aërostat the pilot must inform the nearest authorities. These authorities, after verifying the identity of the aërostat, examining its cargo and carrying out the formalities provided by the fiscal laws, shall sign the ship's book. A freight-carrying aërostat must present its manifest. The persons on board must comply with the requirements of the customs laws of the country where the landing takes place.

22. (Art. 22.) Aërostats which land in a foreign country but which are bound for a point without that country shall receive the benefit of the law concerning customs bonds or the deposit of duties.

23. (Art. 23.) The customs, or if need be the excise, authorities of the country to which aërostats belong, shall place upon aërostats and their rigging an indelible stamp or a lead identification seal, according to the nature of the object; and, if they are thus stamped and sealed upon their return to the country, they shall be admitted free. Only the objects not marked shall be subject to the payment of customs duties.

24. (Art. 24.) Acts which are committed in a private aërostat while it is in contact with the soil of a foreign state fall under the jurisdiction of this state and are tried by its laws, except simple breaches of discipline and the failure to perform the professional duties of an aëronaut. On the other hand, acts committed on board a public aërostat are in principle out of the jurisdiction of the territorial state.

25. (Art. 25.) [*Old Art. 24.*] Public aërostats in foreign countries are entitled to the privileges of extraterritoriality.

26. (Art. 26.) [*Old Art. 25.*] When an aërostat is landing or in distress, the authorities of the contracting states must give it assistance and protection. They must instruct their inhabitants in the proper measures to be taken in such cases.

27. (Art. 27.) [*Old Art. 26.*] Whoever finds a wrecked airship on

land or sea must inform the nearest municipal authorities or the authorities of the first port he enters, within twenty-four hours after the discovery or after his arrival in port.

If the wreck can be identified, it shall be restored to its owner, who shall reimburse the rescuer for the expense to which he is put and pay him as a reward 5 % of the value of the wreck.

If the wreck cannot be identified, it shall remain in the hands of the authorities. The municipal law of each state determines the period within which the owner of the wreck may reasonably claim it.

28. (Art. 28.) [*Old Art. 27.*] Upon the request of those who have an interest in it, such assistance as it is possible to give must be given an aërostat in the air, on land or in the sea. The assistant must be reimbursed for the expense to which he is put and receive a suitable reward.

SECOND PART

Regulation of Aërostats in Time of War

CHAPTER I. *The Field of Aërial War*

29. (Art. 1.) Belligerent states possess the right to engage in hostile acts in every part of the atmosphere over their continental territory and over the high seas or the sea along their coasts.

On the contrary, they are forbidden to commit hostile acts which are calculated to cause the fall of projectiles or cause damage generally over the continental territories of neutral states, at any height whatever, and along the coasts of these states within a distance determined by the range of the cannon of their aërostats.

Military aërostats of belligerents, also public non-military aërostats, may not navigate over neutral states, except with the permission of those states. Private aërostats require no permission to navigate. But both public and private aërostats are forbidden to remain over neutral countries within a certain distance of the frontiers of an enemy state. The navigation of aërostats in time of war is in all cases subject to the same restrictions as in time of peace.

CHAPTER II. *The Relations of Belligerents to each other*

30. (Art. 2.) [*Old Art. 3.*] Belligerents are forbidden to engage in aërial privateering just as in maritime privateering.

But they may add to their military forces private aërostats and their crews, on condition that they be subject to the orders of a duly commissioned officer of the state and have a distinctive mark in plain sight indicative of their character.

31. (Art. 3.) [*Old Art. 4.*] A private aërostat may be converted into a military aërostat, while war is in progress, in the territory and in the territorial waters of the state to which it belongs, in the territory occupied by the troops of this state, on the high seas, and in the air, except over a neutral state, under the conditions set forth in the Hague Convention of October 18, 1907 relative to the conversion of vessels of commerce into warships.

A private aërostat converted into a military aërostat shall remain such as long as hostilities last, and it may not be reconverted into a private aërostat during this period.

32. (Art. 4.) [*Old Art. 5.*] The provisions of section 1, Chapter II, and of section 2, Chapters I and III of the Hague Regulations of October 18, 1907 concerning the laws and customs of land warfare shall apply, so far as possible, to aërial warfare, with the exception of those expressly stipulated in the following articles.

33. (Art. 5.) [*Old Art. 6.*] In conformity with the second and third Hague declarations of July 29, 1899, aërostats are forbidden to throw projectiles intended to spread asphyxiating or deleterious gases, as well as bullets which easily expand or flatten in the human body.

34. (Art. 6.) [*Old Art. 7.*] The bombardment by aërial forces of undefended towns, villages, dwellings and buildings is likewise prohibited.

The rules established by the Hague Conventions of October 18, 1907 concerning sieges and bombardments by land or naval forces, apply to aërial warfare.

35. (Art. 7.) [*Old Art. 8.*] Only aërostats which are acting clandestinely or under false pretenses and by thus dissimulating their operations are gathering or endeavoring to gather information over the territory or territorial waters of a belligerent, or over the territory occupied by its troops or on the high seas over one of its squadrons or warships, and generally in the zone of its operations, with the intention of informing the enemy, may be treated as being suspected of spying.

Consequently undisguised soldiers on reconnoitering duty in aërostats and individuals sent in aërostats to transmit despatches, and in general to keep the different sections of an army or of a territory in communica-

tion with each other, are not considered in principle as spies, but must if they are captured be treated as prisoners of war.

36. (Art. 8.) [*Old Art. 9.*] Public aërostats of a belligerent state, which are not military aërostats, are subject to seizure and confiscation.

37. (Art. 9.) [*Old Art. 10.*] Private enemy aërostats may be seized by a belligerent over its territory or territorial waters, over the territory or territorial waters of the enemy, and over the high seas; but upon the conclusion of peace they must be restored, without indemnity, to the owners. Private freight, even if it belongs to the enemy, which is on board these aërostats, is not seizable.

The preceding provisions in no way modify the right of confiscation which belligerents possess by virtue of the rules concerning blockade or contraband of war, and generally when private aërostats of the enemy engage in hostile acts or are used in military operations.

38. (Art. 10.) [*Old Art. 11.*] The validity or non-validity of the acquisition of neutral nationality by an enemy aërostat depends, in conformity with the provisions of Chapter V of the Declaration of London of February 26, 1909, upon the time when and the conditions under which it is effected.

39. (Art. 11.) [*Old Art. 13.*] Whether an aërostat is neutral or enemy is determined by the distinctive mark of the nationality which it has a right to have.

40. (Art. 12.) [*Old Art. 15.*] When a private enemy aërostat or a non-military public aërostat is seized by a belligerent, the captain and crew, whether nationals of the enemy state or of a neutral state, are not made prisoners of war, but must remain free, under the conditions provided in Chapter III of the Hague Convention of October 18, 1907 relative to certain restrictions on the right of capture in naval warfare.

41. (Art. 13.) [*Old Art. 16.*] The destruction of an enemy private or public aërostat is permitted as an exceptional measure, only if the aërostat is acting as a military aërostat or if it offers resistance to the legal right of capture. The destruction of an aërostat can be effected only after it has received a special summons.

42. (Art. 14.) [*Old Art. 17.*] Belligerents are recognized as possessing the right to capture enemy private and public aërostats which fall upon their territory either by accident or by forced landing.

43. (Art. 15.) [*Old Art. 18.*] Private aërostats of one of the belligerents which upon the outbreak of hostilities happen to be in enemy territory and those which left their last port of departure before the

beginning of the war and come into enemy territory without knowing that hostilities have broken out, cannot be seized under the conditions laid down in Art. 9, unless they have been granted a period of grace within which to leave, or have not taken advantage of the period of grace granted them. A period of grace may not be granted to enemy private aërostats whose build indicates that they are intended to be converted into war aërostats.

Enemy private aërostats which have left their last port of departure before the outbreak of hostilities and which are encountered in space, may be seized like other enemy private aërostats, although unaware of the existence of hostilities.

Non-military public aërostats may have the benefit of the period of grace under the same conditions as private aërostats.

44. (Art. 16.) [*Old Art. 19.*] Aërostats on scientific or philanthropic missions are exempt from seizure, under the conditions mentioned in Chapters I and II of the Hague Convention of October 18, 1907 relative to certain restrictions upon the exercise of the right of capture in naval warfare.

45. (Art. 17.) [*Old Art. 20.*] In regard to the treatment of the sick and wounded, such of the provisions of the Hague Convention of October 18, 1907 for the adaptation of the principles of the Geneva Convention to naval warfare, should govern as may be applied to aërial warfare.

The sick and wounded of belligerents left in the territory of a neutral state by an aërostat, with the consent of the local authorities, must be guarded by the neutral state in such a way as to prevent their taking part again in war operations, unless there is a contrary arrangement between the neutral state and the belligerents. The hospital and confinement expenses shall be borne by the state to which the sick or wounded belong.

46. (Art. 18.) [*Old Art. 21.*] An army invading or occupying enemy territory may seize aërostats of enemy nationality even if they belong to private persons; but in this latter case they must be restored to their owners and the indemnity shall be fixed upon the conclusion of peace, as is provided in Article 53 of The Hague Regulations of October 18, 1907 on the laws and customs of land warfare.

CHAPTER III. *Relations between Neutrals and Belligerents*

47. (Art. 19.) [*Old Art. 22.*] Military aërostats which enter the territory of a neutral state must not remain there more than twenty-

four hours, unless they are so damaged or the state of the atmosphere is such as to prevent their leaving within that time.

If aërostats of the two belligerents should happen to be simultaneously at the same point in this territory, at least twenty-four hours must elapse between the departure of the aërostat of one belligerent and the aërostat of the other. The order of departure is determined by the order of arrival, unless the aërostat which arrived first is entitled to an extension of the legal period of its stay.

Belligerent aërostats must do nothing in neutral territory which may increase their military strength, and they must in no way prejudice the neutral state. They may perform only such acts as are permitted by common humanity and which are indispensable for reaching the nearest point of their country or of a country allied with them in the war.

In general, it is proper to apply to aërial warfare the principles laid down in the Hague Convention of October 18, 1907 concerning the rights and duties of neutral Powers in naval warfare.

48. (Art. 20.) [*Old Art. 23.*] Aërial navigation by neutral countries is prohibited in all parts of the air over belligerent states, as well as within a radius of 11,000 meters of their coasts.

Except in case of *force majeure*, aërostats which infringe this prohibition shall be confiscated, unless it is proved that they have not been spying.

49. (Art. 21.) [*Old Art. 24.*] Even outside the 11,000 meter radius, neutral aërostats may not approach points on these coasts under a blockade which is effective beyond this distance.

Neutral aërostats which happen to be in a blockaded port may not leave it.

The rules promulgated in the Declaration of London of February 26, 1909, in the matter of blockade, apply to aërial as well as to naval warfare.

50. (Art. 22.) [*Old Art. 25.*] Freight which is contraband of war on board neutral aërostats, must be confiscated just as when on board enemy aërostats.

51. (Art. 23.) [*Old Art. 26.*] In determining contraband of war and the conditions under which it is proper to proceed to seizure, the rules of naval warfare promulgated in Chapter II of the Declaration of London of February 26, 1909 should be applied.

52. (Art. 24.) [*Old Art. 27.*] Among conditional contraband articles,

which it is proper to declare seizable if they are intended for the use of the armed forces or the government of an enemy state, should be included aërostats, detached parts as well as accessories, articles and materials for use in aërostation.

53. (Art. 25.) [*Old Art. 28.*] The provisions of Chapter III of the Declaration of London of February 26, 1909, relative to assistance given the enemy by neutral vessels, should apply to neutral aërostats.

Assistance to the enemy is presumed and capture is permitted in the case of neutral aërostats navigating over belligerent states.

54. (Art. 26.) [*Old Art. 30.*] Neutral aërostats may be destroyed under the same conditions as belligerent aërostats.

55. (Art. 27.) [*Old Art. 31.*] Belligerents are recognized as possessing the right of seizure and of confiscation in the cases and to the extent in which it may be exercised by virtue of the preceding articles, even as regards neutral aërostats which fall upon their territory either by accident or by forced landing.

56. (Art. 28.) [*Old Art. 32.*] The subjects of a neutral state, in so far as concerns the aërostats which they may possess in the territory of belligerents, must be treated like the subjects of the states at war.

CHAPTER IV. *Aërial Prizes*

57. (Art. 29.) [*Old Art. 33.*] The trial of aërial prize cases is subject to the same rules as the trial of naval prize cases.

58. (Art. 30.) [*Old Art. 34.*] If the seizure of an aërostat or of its cargo is not confirmed by the court having jurisdiction over prizes, or if, without bringing the matter to trial, the seizure is not maintained, the interested parties are entitled to damages, provided there were not sufficient reasons for seizing the aërostat and its cargo.

In case an aërostat is destroyed, if the captor does not prove that he acted under necessity, as provided in Article 13, he is obliged to indemnify the interested parties, without investigation as to whether the capture was valid or not.

THIRD PART

Regulation of Captive Aërostats and Unmanned Traveling Aërostats

CHAPTER I. *Captive Aërostats*

59. (Art. 1.) Captive aërostats, having in general the nationality of the lawful or *de facto* sovereign of the territory to which they are

moored, are, in time of peace as in time of war, subject to the laws and the jurisdiction of that territory.

In exceptional cases, where they have a different nationality, they should be subject to the following rules:

(1) Private aërostats are subject to the laws and jurisdiction of the country over which they fly, except in cases of simple breach of discipline or failure to perform the professional duty of an aëronaut. Public aërostats, on the contrary, are subject to the authority of the government to which they belong, unless their commander delivers the delinquents to the local authorities or asks their intervention, or unless the security or the fate of the territorial state is involved.

(2) Acts committed in the car of a captive aërostat flying over the high seas or the territorial waters of a state, fall under the jurisdiction of the nation to which the aërostat belongs, or to which the vessel, to which it is moored, belongs, according as the aërostat is public or private, whether the vessel be public or private.

60. (Art. 2.) In time of peace captive aërostats, which are not national military aërostats, may not, without the written permission of the military authorities, be moored within 10,000 meters of fortified works.

No captive aërostat, private or public, may be moored within 10,000 meters of the fortified works of neighboring states, without the written permission of these states.

In time of war captive aërostats of neutrals may not be moored on their territory within 10,000 meters of the frontiers of the belligerent states; but captive aërostats of belligerents have a right to operate upon their own territory on the very border of neutral states. Captive belligerent aërostats may not be moored upon, or even pass through, the territory of a neutral country.

61. (Art. 3.) Captive aërostats which may break loose shall be treated as traveling aërostats.

CHAPTER II. *Unmanned Traveling Aërostats*

62. (Art. 4.) Unmanned traveling aërostats, which, under the name of "experimental balloons" (*ballons-sonde*), are used for scientific purposes exclusively, may navigate freely in all parts of the atmosphere, both in time of war and in time of peace.

These aërostats have attached to their car a plate giving their name,

their domicile, and the address of their owner. They carry on a certain part of their envelope a flag of a particular shape which indicates their nationality.

Every state must see to it that its subjects respect experimental balloons (*ballons-sonde*) landing upon their territory or found in the sea; that they answer the *questionnaire* placed in the car; and return the balloons without delay to their sender. Customs formalities shall be simplified as much as possible in their case.

It is desirable that states should constitute an international union, with an office established at * * * (Strasburg), which shall control the use and regulation of experimental balloons (*ballons-sonde*) and collect the information which they are sent to gather.

63. (Art. 5.) If in time of war one of the belligerents makes use of traveling unmanned balloons in conducting its operations, they may be shot at by the other belligerent in all parts of the atmosphere where hostile acts are permitted.

But, if these *aërostats* escape the fire of the belligerent troops, neutral states over which they may pass have no right to touch them at whatever height they may be.

In case *aërostats* of this kind fall on the territory of a neutral state or are found in the sea by the subject of a neutral state, the authorities of that state must hold them, and any despatches or carrier pigeons which they may have on board, until peace is concluded.

RULES OF PROCEDURE IN AMERICAN-BRITISH CLAIMS ARBITRATION

*Under the provisions of the convention signed at Washington,
August 18, 1910*

Pursuant to the agreement by the Government of the United States and the Government of His Britannic Majesty by an exchange of notes dated April 26, 1912, the agents of the respective parties have agreed upon the following rules of procedure:

CHAPTER I. — RECORD OF CLAIMS AND PROCEEDINGS

1. The record of claims and proceedings provided for in Article 5 of the special agreement shall consist of a register, a minute book, and such other books as the Tribunal may from time to time order.

The Register

2. The titles of claims appearing in the schedule shall be entered in the Register in the order in which the first pleading in respect of each of such claims is filed.

3. The claims shall be separately numbered in the order in which the claims are entered, and this designation by number shall be retained throughout the proceedings.

4. In the space in the Register allotted to each claim shall be recorded all the proceedings had in relation thereto.

The Minute Book

5. The Minute Book shall contain a chronological record of all the proceedings of the Arbitration, including the filing of all pleadings, filing of original documents, agreements of the agents, notices, interlocutory applications and decisions thereon, hearings before the Tribunal, and awards.

6. The Minute Book shall, at each sitting of the Tribunal, be signed by the President of the Tribunal, and countersigned by the Secretaries.

The Record

7. The Register, the Minute Book, and the other books, if any, shall be kept by the Secretaries of the Tribunal in duplicate.

8. On the conclusion of the Arbitration one set shall be handed to each of the Agents. Documents filed with the Secretaries of the Tribunal under Rule 25 shall, on the conclusion of the Arbitration, be returned to the party by whom they have been filed, and one copy of the pleadings and of the awards filed in the Office of the Tribunal shall be handed to each of the Agents.

CHAPTER II. — THE PLEADINGS

9. The pleadings shall, in respect of each claim, consist of a Memorial and an Answer. The claimant Government shall also be entitled to file a Reply if it thinks necessary.

10. The pleadings on either side shall be prepared with all dispatch and filed as soon as may be reasonably possible after the making of these rules.

The Memorial

11. The Memorial shall contain a succinct statement of the facts out of which the claim arises, of the grounds upon which it is put forward, and of the relief claimed.

12. The Memorial shall be accompanied by copies of the documents and other proofs upon which the claimant Government relies.

13. In the case of claims put forward on behalf of private individuals, corporations, or societies, other than claims arising out of treaties with Indian tribes or nations, the Memorial shall set out the name and nationality of the claimant, or, where the claimant is dead, of his present representatives, with the evidence in support of such nationality.

14. Where more than one claim arises out of the same set of facts, all or any of such claims may be included in the same Memorial.

The Answer

15. The Answer shall set out the grounds upon which the claim is resisted by the respondent Government, and shall in so doing indicate clearly the attitude of the respondent Government toward the several allegations contained in the Memorial.

16. The Answer shall be accompanied by the documents and proofs upon which the respondent Government relies.

The Reply

17. Where a Reply is considered necessary by the claimant Government, it shall deal only with allegations in the Answer, which present facts or contentions not adequately met or dealt with in the Memorial.

18. The Reply shall be accompanied by such documents and proofs as may be required for the purposes thereof.

Further Evidence

19. If the respondent Government considers it necessary to file further evidence for the purpose of answering the statements contained in the Reply, such further evidence may be filed without a written pleading, but accompanied by a short explanatory summary.

20. There shall be no written pleadings other than the Memorial, the Answer, and the Reply, except by agreement between the Agents or by order of the Tribunal.

21. Either party may make use in its pleadings of any of the "American State Papers," "Foreign Relations of the United States," British "State Papers," British "Blue Books," and British Colonial "Parliamentary Papers," and of any treaties, conventions, statutes, and reports of judicial decisions, which have been published officially either in the United States or in the British Empire, without filing copies thereof, provided that the party making use of the same shall, if required to do so by the Agent of the other party, supply one copy of such publication or document for the use of the Tribunal and one copy for each Agent. Where either party desires to make use in its pleadings of any voluminous reports or documents, not contained in any of the publications above named, such reports or documents need not be printed as part of the pleadings, but seven copies thereof shall accompany and be delivered with the pleadings. Of these seven copies, two shall be filed in the Office of the Tribunal, one shall be sent by the Secretaries to each member of the Tribunal, and two to the Agent of the other party. This rule shall not be held to preclude the party from printing in or with his written pleading extracts from such report or document.

CHAPTER III. — FILING OF PLEADINGS

22. Pleadings and further evidence, if any, shall be printed by the parties on paper of the size of $9\frac{1}{8}$ inches by $5\frac{7}{8}$ inches, when folded.

23. Twenty-eight copies of all pleadings, and of further evidence under Rule 19, if any, shall be delivered at the Office of the Tribunal.

24. Of these copies, two shall be filed in the Office of the Tribunal and twenty shall be forwarded forthwith to the Agent of the other party, with a note specifying the date on which the document was filed, and two shall be at the disposal of each member of the Tribunal.

CHAPTER IV. — EVIDENCE

25. The originals of all documents and other proofs brought forward in support of or in answer to a claim shall, so far as possible, be filed in the Office of the Tribunal, in order that they may be open to the inspection of the members of the Tribunal and of the other party.

26. Where the originals are not in existence, or can not be traced, copies authenticated in the best available manner shall be filed instead of the originals.

27. Where the original of any such document or other proof is filed at any Government office on either side and can not conveniently be withdrawn, it shall be open to the inspection of the Agent of either party, respectively, or of any person designated by him for the purpose.

28. It shall not be necessary to file copies of any legislative act or judicial decision which has been published officially and of which copies can be obtained by the public.

29. Notice to inspect the original of any document referred to in Rule 27 shall be given to the Agent of the other party and a copy thereof filed in the Office of the Tribunal.

30. The right to inspect shall extend to the whole of any document of which part only is brought forward in support of or in answer to a claim, but shall not extend to any enclosures therein, or annexes thereto, or minutes, or endorsements thereon, if such enclosures, annexes, minutes, or endorsements are not adduced as evidence or referred to in the pleadings.

CHAPTER V. — INTERLOCUTORY APPLICATIONS

31. An application to the Tribunal for an order under Rules 20 and 36, or upon any other matter of procedure within its jurisdiction, shall be made in writing.

32. Notice of the application shall be given by the Secretaries of the Tribunal to the Agent of the other party, and the day upon which the application will be heard shall be notified to the Agents of both parties, and one Counsel shall be heard by the Tribunal thereon on either side.

33. Orders of the Tribunal, if any, made in such applications shall be entered in the Minute Book and copies thereof shall be communicated to the Agents.

CHAPTER VI. — THE HEARING

34. The order in which claims shall come on for hearing before the Tribunal shall be arranged between the Agents.

35. At the hearing of a claim, Counsel shall be heard on either side. Counsel for the claimant Government shall open the case and shall have the right to reply.

36. There shall be no oral evidence at the hearing of a claim, except by agreement between the Agents or by order of the Tribunal. If oral

evidence be given at the hearing on behalf of one party, Counsel for the other party shall have a right to cross-examine the witness.

37. Where, under the terms of submission or by agreement between the Agents, any question is to be dealt with at the hearing and decided as a preliminary question, the arguments of Counsel at the hearing shall be addressed to that question; but they shall be entitled to enter into the facts of the case as far as they may deem necessary.

38. If the decision of the Tribunal upon such preliminary question do not dispose of the claim, a second hearing shall take place for its further argument.

CHAPTER VII. — THE AWARD

39. The award of the Tribunal in respect of each claim shall be delivered at a public session of the Tribunal as soon after the hearing of such claim has been concluded as may be possible.

40. The award shall set out fully the grounds on which it is based and shall be signed by the President of the Tribunal.

41. Any member of the Tribunal who dissents from the award shall make and sign a dissenting report setting out the grounds upon which he dissents and the award which in his opinion should have been made.

42. Two signed copies of the award and of a dissenting report, if any, shall be filed in the Office of the Tribunal, and twenty printed copies shall be given to each of the Agents.

CHAPTER VIII. — SESSIONS OF THE TRIBUNAL

43. The sessions of the Tribunal for the purpose of hearing the arguments of Counsel or for the delivery of awards shall be open to the public.

(Signed) S. MALLET-PREVOST,
Agent of the United States.

(Signed) C. J. B. HURST,
Agent of Great Britain.

July 11, 1912.

CONVENTION BETWEEN URUGUAY AND THE ARGENTINE REPUBLIC CONCERNING COASTWISE TRADE¹

Signed at Montevideo, July 29, 1912

His Excellency the President of the Oriental Republic of Uruguay and His Excellency the President of the Argentine Nation, being equally animated by the desire to facilitate the coastwise trade to the vessels under their respective flags, have determined and resolved to conclude a convention, and for that purpose have appointed as their plenipotentiaries, that is to say;

His Excellency the President of the Oriental Republic of the Uruguay: Señor Doctor Don José Romeu, Minister Secretary of State in the Department of Foreign Affairs;

His Excellency the President of the Argentine Nation: Señor Don Enrique B. Moreno, Envoy Extraordinary and Minister Plenipotentiary to the Government of the Oriental Republic of Uruguay;

Who, after having communicated to each other their respective full powers which were found in good and due form, have agreed upon the following:

ARTICLE 1

The high contracting parties grant to the vessels engaged in the coastwise trade along the Rio de la Plata and its affluents, subject to the particular laws and regulations that may govern that commerce in both nations, the same facilities and privileges of customs, ports, lighthouses, wharves and imposts which may by such laws be granted to vessels under their respective flags.

ARTICLE 2

In order to enjoy the facilities and privileges provided for in the preceding article, the vessels of each of the contracting nations shall be subject, while in the ports, waterways, and customs districts of the other, to the same laws, regulations, requisites, and formalities to which the vessels of the other may be subject.

¹ Translated from *Diario Oficial* (Uruguay), September 14, 1912, p. 620.

ARTICLE 3

The formalities which shall be necessary for the recognition of the vessels which are to enjoy the reciprocity, and the rules for the uniformity of documents and customs procedure in the coastwise trade between both countries, shall be agreed upon by such authorities as the governments of the two nations shall designate immediately after the exchange of the ratifications of this convention shall take place.

ARTICLE 4

This convention shall remain in force for six months after one of the contracting parties shall communicate to the other its desire to have it rescinded or reformed.

In faith whereof the respective plenipotentiaries have signed this agreement in duplicate and have hereunto affixed their seals.

Done at Montevideo, on the 29th day of July, one thousand nine hundred and twelve.

JOSÉ ROMEU (Seal)

ENRIQUE B. MORENO (Seal)

ARBITRATION CONVENTION BETWEEN THE REPUBLIC OF CUBA AND THE
UNITED STATES OF BRAZIL ¹

*Signed at Washington, June 10, 1909; ratifications exchanged August 2,
1911*

The President of the Republic of Cuba and the President of the United States of Brazil, desirous to conclude an arbitral convention in accordance with the principles enunciated in Articles XV to XIX and in Article XXI of the Convention for the Peaceful Settlement of International Disputes, signed at The Hague on the 29th day of July, 1899, and in Articles XXXVII to XL and in Article XLII of the convention signed in the same city of The Hague on the 18th day of October, 1907, have for this purpose appointed their plenipotentiaries, to wit:

¹ *Gaceta Oficial* (Cuba), 1911, No. 38.

The President of the Republic of Cuba, His Excellency Sr. Carlos García Vélaz, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Cuba to the Government of the United States of America; and

The President of the United States of Brazil, His Excellency Sr. Joaquín Nabuco, Ambassador Extraordinary and Plenipotentiary of the United States of Brazil to the Government of the United States of America, Member of the Permanent Court of Arbitration at The Hague;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the high contracting parties, and which it may not have been possible to settle by diplomacy, shall be submitted to the Permanent Court of Arbitration at The Hague; provided, that they do not affect the vital interests, the independence or the honor of the high contracting parties and do not concern the interests of third parties; it being likewise understood that, in case one of the two high contracting parties should choose to do so, any arbitration provided for in this convention may be submitted to the chief executive of a friendly state, or to arbitrators chosen without restriction to the list of the above named Permanent Court of Arbitration at The Hague.

ARTICLE II

In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration at The Hague, or to other arbitrator or arbitrators, shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers of the arbitrator or arbitrators and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure. It is understood that such special agreement shall be entered into on behalf of the Republic of Cuba, by the President of the Republic of Cuba with the approval of the Senate thereof, and on behalf of the Republic of Brazil, by the President of the United States of Brazil with the approval of the two Houses of the Federal Congress thereof.

ARTICLE III

The present convention shall remain in force for a period of five years from the date of the exchange of the ratifications thereof, and, if not denounced six months before the expiration of the above named period, it shall remain in force for an equal period of five years, and so on in the future.

ARTICLE IV

The present convention shall be ratified by the President of the Republic of Cuba with the approval of the Senate thereof, and by the President of the United States of Brazil with the authorization of the Federal Congress thereof. The ratifications shall be exchanged in the City of Washington as soon as possible, and the convention shall become effective immediately upon the exchange of ratifications.

In witness whereof, we, the above named plenipotentiaries, have signed the present instrument in duplicate, in the Spanish and Portuguese languages, and have affixed thereto our seals.

Done in the City of Washington on the tenth day of June, 1909.

(L. S.) CARLOS GARCÍA VÉLEZ.

(L. S.) JOAQUÍN NABUCO.

EXTRADITION TREATY BETWEEN VENEZUELA AND CUBA ¹

Signed at Havana, July 14, 1910; ratifications exchanged January 24, 1913

The Republic of Cuba and the United States of Venezuela, with a view to securing the enforcement of justice, have decided to conclude a treaty of extradition and, for that purpose, have appointed as their plenipotentiaries:

His Excellency the President of the Republic of Cuba: Señor Manuel Sanguily, Secretary of State of the Republic of Cuba, and,

His Excellency the President of the United States of Venezuela: General Señor Ignacio Andrade, Envoy Extraordinary and Minister Plenipotentiary of the United States of Venezuela to Cuba;

¹ Translated from the *Gaceta Oficial* (Cuba), March 27, 1913.

Who, after having communicated to each other their respective full powers, which were found in good and due form, have agreed upon the following articles:

ARTICLE I

The Republic of Cuba and the United States of Venezuela pledge themselves reciprocally to surrender to each other, pursuant to the stipulations of this treaty, the persons who, having been charged as principals, accomplices or accessories with or convicted of any of the crimes or offences mentioned in Article II, committed, or attempted, or the perpetration of which shall have been frustrated, within the territories of one of the contracting parties, shall seek an asylum or be found within the territories of the other: Provided, however, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his arrest and commitment for trial, if the crime or offence had been committed, attempted or frustrated therein.

ARTICLE II

Extradition shall be granted for the following crimes or offences.

1. Voluntary homicide, including parricide, infanticide, assassination, poisoning and abortion.
2. Wounding or beating voluntarily inflicted which shall produce, without the intention of causing it, death, a mental or bodily disease that is or that appears to be incurable, inability to work, loss or absolute deprivation of the eyesight or of a member necessary for self-defence or protection, or a grave mutilation.
3. Disasters caused by arson, the sinking or stranding of vessels, flooding, or by the explosion of a mine or infernal machine.
4. Abduction, rape and other attempts against modesty.
5. Abandonment of children.
6. Kidnapping, concealment, suppression, substitution or *suposición* of children.
7. Association of criminals.
8. Bigamy and polygamy.
9. Robbery, larceny and fraud.
10. Falsification or alteration of deeds, or public, official, commercial or private documents, or of telegraphic messages; the use of such documents with knowledge of their being forged or altered.

11. Fabrication of counterfeit money or alteration of lawful coins; forgery or alteration of paper money, of banknotes, of government bonds or coupons, national as well as foreign; forgery of postage or telegraphic stamps or of any other sort of stamped paper whose issue shall be reserved to the state; to put into circulation or to introduce such articles knowing them to be forged or altered.

12. Fabrication or introduction of dies, stamps, or any other tool or instrument known to be intended for forgery.

13. Embezzlement committed by public officers; embezzlement committed by persons employed or salaried in detriment of those employing them, provided that in either case the embezzlement shall exceed one thousand bolivares or two hundred pesos.

14. Bribery and corruption of officers.

15. Perjury or false statements by witnesses, experts or interpreters.

16. Fraudulent bankruptcy, and frauds committed in the acts of bankruptcy.

17. Wilful or unlawful destruction or obstruction of railroads, which may endanger human life.

18. Piracy, as defined by the laws of the contracting states as well as by the law of nations.

19. Revolt or conspiracy to revolt, by two or more persons on board of a vessel on the high seas, against the authority of the captain or his substitute.

20. Crimes or offences against the laws of both countries that may be intended for the suppression of slavery and the slave traffic.

21. Attempts by private persons against personal liberty and the inviolability of the domicile.

ARTICLE III

Whenever the crime or offence which gives rise to the extradition shall have been committed outside of the territory of the state which makes the demand, if the laws of the country applied to authorize a prosecution for the same infraction when committed outside of its own jurisdiction, said demand shall be properly acted upon.

ARTICLE IV

The extradition shall not be granted if the act for which it is demanded is considered by the state requested as a political offence or an act connected therewith.

It is formally stipulated that the persons extradited shall not, in any case, be prosecuted or punished for any previous political offence nor for other acts connected therewith.

An attempt against the person of the executive of a state, shall not be considered as a political offence, nor as an act connected therewith, when such an attempt comprises the act either of homicide, assassination or poisoning.

ARTICLE V

Nor shall the extradition be granted in the cases following:

(a) When, in accordance with the laws of either state, the maximum punishment for participation in the crime or offence charged against the person demanded, does not exceed imprisonment for six months.

(b) When, according to the laws of the state to which the application is made, the action or penalty to which the party prosecuted or sentenced was liable shall have been barred by limitation.

(c) When the person whose extradition is requested has been already tried and acquitted or has served out his sentence, or when the acts charged have been the subject of an amnesty or pardon.

ARTICLE VI

The application for extradition shall always be made through diplomatic channels.

ARTICLE VII

If the person demanded shall be under prosecution or sentence in the country from which extradition is sought, the extradition shall be postponed until such person shall be either discharged or pardoned or shall have served out his sentence, or the cause shall be in any other way determined.

ARTICLE VIII

The application for extradition shall whenever the fugitive shall have been convicted be accompanied by a duly authenticated copy of the sentence. When the fugitive is only charged with and prosecuted for the offence, the application shall be accompanied by a duly authenticated copy of the warrant for his arrest or of the indictment issued by the proper authority as well as the testimony or other evidence upon which such warrants were issued.

To these papers shall be attached a copy of the laws applicable to the

act charged, and in so far as it may be possible, individual marks to establish the identity of the person demanded.

The extradition of fugitives under the stipulations of this treaty shall be made in accordance with the extradition laws of the state to which the application is made.

In no case shall the extradition take place if a similar act is not punishable by the laws of the nation requested.

ARTICLE IX

The provisional arrest of a fugitive shall be effected upon exhibition of a warrant of arrest issued by a court having competent jurisdiction and presented through diplomatic channels.

Provisional arrest shall also be effected upon advice, transmitted by the most rapid transit, and even by telegraph, of the existence of a warrant of arrest; on condition, however, that said advice shall be regularly communicated, through diplomatic channels, to the Minister of Foreign Affairs of the State wherein the delinquent shall have sought asylum.

The provisional detention shall cease if, within the term of three months, to be computed from the date of the arrest, the application for extradition shall not have been perfected in accordance with the provisions of Article VIII.

ARTICLE X

The high contracting parties shall not be obliged to surrender their own citizens.

ARTICLE XI

Whenever the United States of Venezuela shall be requested to surrender a fugitive, the extradition shall not be granted except upon assurance, made through diplomatic channels, that capital punishment shall not be inflicted upon the prosecuted or condemned party if such punishment be or should have been the penalty imposed on said party in the Republic of Cuba for the offence for which the extradition is granted.

ARTICLE XII

The extradited party shall not be prosecuted or punished in the state which claims him, for any crime or offence committed previous to his extradition, unless it is the one mentioned in the request, nor surrendered to another nation, unless he has, in both cases, been at liberty to

leave said state during one month after having been tried, and in case of conviction, after having served out his sentence or having been pardoned. In all these cases, the extradited person must be warned against the consequences to which his continuance within the territory of the nation would expose him.

ARTICLE XIII

All the objects which may constitute the *corpus delicti*, whether being the proceeds of the crime or offence or having served for its commission, as well as any other material evidence in making proof of the crime or offence which shall have been found in the possession of the fugitive, shall, after a decision of the proper authority, be delivered to the claimant state, in so far as it may be practicable and in consonance with the laws of the respective nations. The rights of third parties in respect to such objects, shall be, however, duly respected.

ARTICLE XIV

If the extradition of one and the same person is demanded at the same time by several states, preference shall be given to the state whose demand shall have been received first, unless the country upon which the demand is made shall be obliged by a previous treaty, to give such preference in a different manner.

ARTICLE XV

If one of the two governments shall not have disposed of the person claimed within a period of four months, to be reckoned from the date in which said person was placed at its disposal, the prisoner shall be discharged, and shall not be liable to a new arrest for the same cause.

ARTICLE XVI

Consuls General, Consuls, Vice-Consuls and Consular Agents of one of the states shall be empowered to demand that the officers, sailors or any other persons who shall compose the crews of the war or merchant vessels of their respective nations, be arrested and sent on board of said vessels to their country, whenever they shall be informed against or accused of having deserted the same. For that purpose they shall address themselves in writing to the proper local authorities of the state in which the demand is made, and shall prove by the exhibition of the

ship's register or the roll of the ship's crew or other official documents that the persons demanded belong to such crew.

If the demand is thus justified, unless it is proved in due form that they are citizens of the state to which the request is made and were such at the time of their enrollment, their surrender shall not be refused. They shall be given all assistance in the search, capture and arrest of the deserters, who shall also be committed to the prisons of the nation upon request and at the expense of the consuls until opportunity is afforded to take them out. But if this opportunity should not occur within the term of one month, to be computed from the day on which the arrest was made, the deserters shall be discharged, without being again liable to arrest for the same cause.

If the deserter has committed some offence and a court having competent jurisdiction claims him for commitment and trial, his surrender shall be postponed until the sentence has been passed and executed.

ARTICLE XVII

Whenever in the course of a non-political cause it should be judged necessary to take the depositions of persons found in one of the two countries, or to carry out some other act, or proceedings, letters rogatory shall be sent to that effect through diplomatic channels, and complied with by the proper officers in accordance with the laws of the country requested.

The two governments renounce any claim for the reimbursement of the expenses caused by the execution of the rogatory commissions, provided they do not require reports or any other work by experts.

ARTICLE XVIII

The expenses occasioned by the arrest, commitment, examination and surrender of the fugitives, in virtue of this treaty, shall be borne by the state in whose behalf the extradition is requested.

The person who is to be surrendered shall be taken to such port of the requested state as shall be designated by the government making the request or its diplomatic agent, at whose expense he shall be embarked.

ARTICLE XIX

The present treaty shall remain in force during the term of three years, which shall commence to run two months after the exchange of the ratifications hereof, and shall have no retroactive effect.

If a year before the expiration of that period neither of the high contracting parties shall have announced to the other, by an official notification, its intention to terminate the same, the treaty shall continue in force for one year more, and so on, from year to year, until the expiration of a year beginning on the day on which one of the high contracting parties shall have denounced it.

ARTICLE XX

This treaty shall be ratified in accordance with the laws of each of the contracting states, and its ratifications shall be exchanged in this same city as soon as possible.

In testimony whereof the respective plenipotentiaries have signed the preceding articles and hereunto affixed their seals.

Done in duplicate in the City of Havana, on the fourteenth day of July, one thousand nine hundred and ten.

MANUEL SANGUILY (Seal)

IGNACIO ANDRADE (Seal)

JOINT NOTE OF THE FRENCH AMBASSADOR AND THE ITALIAN MINISTER OF FOREIGN AFFAIRS, CONCERNING THE SETTLEMENT OF THE QUESTIONS ARISING OUT OF THE ARREST OF THE FRENCH STEAMERS "CARTHAGE" AND "MANOUBA"¹

January 26, 1912

The Ambassador of France and the Minister of Foreign Affairs of Italy, having investigated in the most friendly spirit the circumstances which preceded and followed the arrest and search by an Italian cruiser of two French steamers proceeding from Marseilles to Tunis, are happy to report, in thorough accord and before every other consideration, that in neither of the two countries has there arisen as a result of these incidents any feeling contrary to the sentiments of sincere and constant friendship which unite them.

This report has led the two governments without difficulty to decide:

1. That the questions arising from the capture and temporary arrest

¹ Translated from *Le Memorial Diplomatique*, January 28, 1912, p. 57.

of the steamer "Carthage" shall be referred to the Court of Arbitration at The Hague for examination, under the Franco-Italian arbitration convention of December 23, 1903, renewed December 24, 1908.

2. That in the matter of the seizure of the "Manouba" and of the Ottoman passengers who were on board, as this action, according to the Italian Government, was taken by virtue of the rights which it declares it possesses according to the general principles of international law and Article 47 of the Declaration of London of 1909, the circumstances under which this action was taken and the consequences thereof shall likewise be submitted to the High International Court established at The Hague for examination; that, in order to restore the *statu quo ante*, in so far as concerns the Ottoman passengers who were seized, the latter shall be delivered to the French consul at Cagliari, who shall see that they are taken back to the place from which they sailed, upon the responsibility of the French Government, which government shall take the necessary measures to prevent Ottoman passengers not belonging to the "Red Crescent" but to fighting forces, from sailing from a French port to Tunis or to the scene of military operations.

AGREEMENT BETWEEN THE UNITED KINGDOM AND LIBERIA RESPECTING
THE NAVIGATION OF THE MANOH RIVER¹

Signed at Monrovia, April 10, 1913

The Government of His Britannic Majesty and the Government of Liberia, being desirous of concluding an agreement with respect to the navigation of the Manoh River, the undersigned, duly authorized to that effect, have agreed as follows: —

All vessels from Liberian ports of entry intending to proceed to Liberian ports of entry on the River Manoh, on arriving at Manoh Salija, shall enter and make due report inwards there to the collector of customs of all cargo laden on board in such manner as is required by the Sierra Leone customs authorities, and as is herein provided; and all such vessels shall produce transires in duplicate, signed and certified

¹ Treaty Series, Great Britain, 1913, No. 6.

to by the collector of customs at the Liberian port of shipment, such transires to detail quantities and values. Such transires shall be attached to the report inwards. They shall be denominated "Original" and "Duplicate." The original copy shall be retained and filed in the custom-house, Manoh Salija, by the officer in charge of the customs, Manoh Salija.

2. To every such vessel clearing from Manoh Salija for a Liberian port of entry on the Manoh River a clearance label shall be issued, to which shall be attached by the Sierra Leone customs seal the duplicate copy of the Liberian transire deposited by the master of the vessel at the time of report inwards. For the present no report outwards shall be required by the officer in charge at Manoh Salija, but that officer will certify on the report inwards the fact that all packages of cargo specified on said transire consigned to Liberian river ports are on board at the time of clearance. The port of destination shall be specified for all cargo.

3. Vessels Proceeding to Liberian Gene

Such vessel, after clearance, shall forthwith proceed to British Gene before touching at any river port, and shall produce at the custom-house there the clearance label and transire to the officer in charge of the customs there. That officer, on satisfying himself that all cargo has been duly accounted for, shall proceed with the vessel to the port of Liberian Gene and there witness the landing of all cargo; and such officer shall forward in every case a certificate of landing in detail to the officer of customs at Manoh Salija. The clearance label and duplicate transire as aforesaid shall be deposited in the custody of the officer in charge of the customs, Liberian Gene. A fee of two shillings and sixpence shall be payable by the importer to the officer of customs, British Gene, for witnessing to and certifying landing.

4. In all cases where goods are not accounted for to the satisfaction of the officer in charge, British Gene, a full statement of such discrepancies shall be made by that officer and presented to the officer in charge, Liberian Gene, who shall forthwith, and before delivering any portion whatsoever of the cargo, collect from the importer such duties as may be due upon such discrepancies according to Sierra Leone tariff of import duties, and shall thereupon pay to the officer in charge, British Gene, all such duties as may be due on the discrepancies found, taking a receipt endorsed on the Liberian transire.

5. Nothing in this agreement shall prevent vessels belonging to the Republic of Liberia from entering the Manoh River from seaward, light or in ballast, and proceeding up the said river for the purpose of loading goods at a Liberian port of entry for transportation to another port of entry on the Liberian seaboard. Such vessels, on entering the Manoh River, must bring to at Manoh Salija, the master depositing with the customs officer in charge of that port a "Transire in Ballast" in duplicate, signed by the collector of customs at the Liberian port whence she arrived. An officer of the Sierra Leone customs shall be boarded on and shall proceed with the vessel to the Liberian port of entry at which it is intended she shall load, and shall remain on board until her loading is complete, and shall return with her to Manoh Salija. There her outward cargo shall be examined by the customs officer, who, if satisfied, will endorse the original transire clearing the vessel from one Liberian port to another, with a certificate of such examination. A clearance label will be issued by the officer in charge, Manoh Salija, and affixed to the original transire by the customs seal of the port. This shall be the vessel's outward clearance. For the service of the officer who is boarded on a Liberian vessel entering the River Manoh light or in ballast from seaward there shall be paid by the exporter a fee of two shillings and sixpence for each night the officer remains on board, from the time of report at Manoh Salija until the time of her departure for her port of destination.

6. Vessels Proceeding to Liberian River Ports other than Gene

It is agreed that, notwithstanding the limitations of the 3rd paragraph of this agreement, it shall be lawful for the customs authorities of Sierra Leone to place customs officers on board Liberian vessels at Manoh Salija, if such a course is deemed more convenient, and that Liberian vessels may discharge cargo which has been duly reported at Manoh Salija (or load cargo after due report at Manoh Salija of the vessel, light or in ballast) at any recognized port of entry on the Liberian side of the Manoh River. The Liberian Government undertakes to furnish a list of existing ports of entry and to notify the Sierra Leone Government of all additions to or deletions from the number. Goods shall not be landed or loaded at a place which is not an acknowledged port of entry.

7. If any duty connected with the landing or shipping of goods from

or to Liberian vessels is performed between 6 p. m. and 6 a. m., or on Sundays, or on days which are bank holidays in Sierra Leone, there shall be payable by the importer, in addition to the fees specified in this agreement, for every hour the officer is employed, overtime fees at the rates specified by the law which is at the time in force in Sierra Leone.

8. This agreement shall only apply to goods upon which the duties of customs shall have already been paid in Liberia.

9. The present agreement shall come into force from the date of its signature. It is concluded for one year, but shall remain in force until the expiration of three months from the day on which one of the high contracting parties shall have given notice of its intention of terminating it.

Done in duplicate at Monrovia, the 10th day of April, 1913.

R. C. F. MAUGHAM,
Acting British Consul-General.
C. D. B. KING,
Secretary of State,
Republic of Liberia.

AGREEMENT BETWEEN RUSSIA AND MONGOLIA, WITH ACCOMPANYING
PROTOCOL¹

Signed at Urga, October 21/November 3, 1912

In accordance with the desire unanimously expressed by the Mongolians to maintain the national and historic constitution of their country, the Chinese troops and authorities were obliged to evacuate Mongolian territory, and Djebzoun Damba-Khutukhta was proclaimed Ruler of the Mongolian people. The old relations between Mongolia and China thus came to an end.

At the present moment, taking into consideration the facts stated above, as well as the mutual friendship which has always existed between the Russian and Mongolian nations, and in view of the necessity of defining exactly the system regulating trade between Russia and Mongolia:

¹ Command Papers (Great Britain), No. 6604.

The Actual State Councillor Jean Korostovetz, duly authorized for the purpose by the Imperial Russian Government; and

The protector of the ten thousand doctrines, Sain-noin Khan Namnan-Souroun, President of the Council of Ministers of Mongolia;

The plenipotentiary Tchinsouzkoutou Tzin-van Lama Tzerin-Tchimet, Minister of the Interior;

The plenipotentiary Daitzin-van Handa-dorji, of the rank of Khan-erdeni, Minister for Foreign Affairs;

The plenipotentiary Erdeni Dalai Tzun-van Gombo-Souroun, Minister of War;

The plenipotentiary Touchetou Tzun-van Tchakdorjab, Minister of Finance; and

The plenipotentiary Erdeni Tzun-van Namsarai, Minister of Justice;

Duly authorized by the Ruler of the Mongolian nation, by the Mongolian Government and by the ruling Princes, have agreed as follows: —

ARTICLE 1

The Imperial Russian Government shall assist Mongolia to maintain the autonomous régime which she has established, as also the right to have her national army, and to admit neither the presence of Chinese troops on her territory nor the colonization of her land by the Chinese.

ARTICLE 2

The Ruler of Mongolia and the Mongolian Government shall grant, as in the past, to Russian subjects and trade the enjoyment in their possessions of the rights and privileges enumerated in the protocol annexed hereto.

It is well understood that there shall not be granted to other foreign subjects in Mongolia rights not enjoyed there by Russian subjects.

ARTICLE 3

If the Mongolian Government finds it necessary to conclude a separate treaty with China or another foreign Power, the new treaty shall in no case either infringe the clauses of the present agreement and of the protocol annexed thereto, or modify them without the consent of the Imperial Russian Government.

ARTICLE 4

The present amicable agreement shall come into force from the date of its signature.

In witness whereof the respective plenipotentiaries, having compared the two texts, Russian and Mongolian, of the present agreement, made in duplicate, and having found the two texts to correspond, have signed them, have affixed thereto their seals, and have exchanged texts.

Done at Urga on the 21st October, 1912, corresponding to the 24th day of the last autumn month of the 2nd year of the reign of the Unanimously Proclaimed, according to the Mongolian calendar.

Protocol annexed to Russo-Mongolian Agreement of the 21st October (3rd November), 1912

By virtue of the enactment of the second article of the agreement signed on this date between Actual State Councillor, Ivan Korostovets, plenipotentiary of the Imperial Russian Government, and the President of the Council of Ministers of Mongolia, Sain-noin Khan Namnan-Souroun, the protector of ten thousand doctrines; the plenipotentiary and Minister of the Interior, Tchinsouzkoutou Tzin-van Lama Tzerintchimet; the plenipotentiary and Minister for Foreign Affairs, Daitzin-van Handa-dorji of the rank of Khan-erdeni; the plenipotentiary and Minister of War, Erdeni-Dalai Tzun-van Gombo-Souroun; the plenipotentiary and Minister of Finance, Touchetou Tzun-van Tchakdorjab; and the plenipotentiary and Minister of Justice, Erdeni Tzun-van Nam-sarai, on the authority of the Ruler of Mongolia, the Mongolian Government, and the ruling Princes; the above-named plenipotentiaries have come to an agreement respecting the following articles, in which are set forth the rights and privileges of Russian subjects in Mongolia, some of which they already enjoy, and the rights and privileges of Mongolian subjects in Russia:

ARTICLE I

Russian subjects, as formerly, shall enjoy the right to reside and move freely from one place to another throughout Mongolia; to engage there in every kind of commercial, industrial, and other business; and to enter into agreements of various kinds, whether with individuals, or firms, or institutions, official or private, Russian, Mongolian, Chinese, or foreign.

ARTICLE 2

Russian subjects, as formerly, shall enjoy the right at all times to import and export, without payment of import and export dues, every kind of product of the soil and industry of Russia, Mongolia and China, and other countries, and to trade freely in it without payment of any duties, taxes, or other dues.

The enactments of this (2nd) article shall not extend to combined Russo-Chinese undertakings, or to Russian subjects falsely declaring themselves to be owners of wares not their property.

ARTICLE 3

Russian credit institutions shall have the right to open branches in Mongolia, and to transact all kinds of financial and other business, whether with individuals, institutions, or companies.

ARTICLE 4

Russian subjects may conclude purchases and sales in cash or by an exchange of wares (barter), and they may conclude agreements on credit. Neither "khoshuns" nor the Mongolian Treasury shall be held responsible for the debts of private individuals.

ARTICLE 5

The Mongolian authorities shall not preclude Mongolians or Chinese from completing any kind of commercial agreement with Russian subjects, from entering into their personal service, or into commercial and industrial undertakings formed by them. No rights of monopoly as regards commerce or industry shall be granted to any official or private companies, institutions, or individuals in Mongolia. It is, of course, understood that companies and individuals who have already received such monopolies from the Mongolian Government previous to the conclusion of this agreement shall retain their rights and privileges until the expiry of the period fixed.

ARTICLE 6

Russian subjects shall be everywhere granted the right, whether in towns or "khoshuns," to hold allotments on lease, or to acquire them as their own property for the purpose of organizing commercial indus-

trial establishments, and also for the purpose of constructing houses, shops, and stores. In addition, Russian subjects shall have the right to lease vacant lands for cultivation. It is, of course, understood that these allotments shall be obtained and leased for the above-specified purposes, and not for speculative aims. These allotments shall be assigned by agreement with the Mongolian Government in accordance with existing laws of Mongolia, everywhere excepting in sacred places and pasture lands.

ARTICLE 7

Russian subjects shall be empowered to enter into agreements with the Mongolian Government respecting the working of minerals and timber, fisheries, etc.

ARTICLE 8

The Russian Government shall have the right, in agreement with the Government of Mongolia, to appoint consuls in those parts of Mongolia it shall deem necessary.

Similarly, the Mongolian Government shall be empowered to have government agents at those frontier parts of the empire where, by mutual agreement, it shall be found necessary.

ARTICLE 9

At points where there are Russian consulates, as also in other localities of importance for Russian trade, there shall be allotted, by mutual agreement between Russian consuls and the Mongolian Government, special "factories" for various branches of industry and the residence of Russian subjects. These "factories" shall be under the exclusive control of the above-mentioned consuls, or of the heads of Russian commercial companies if there be no Russian consul.

ARTICLE 10

Russian subjects, in agreement with the Mongolian Government, shall retain the right to institute, at their own costs, a postal service for the dispatch of letters and the transit of wares between various localities in Mongolia and also between specified localities and points on the Russian frontier. In the event of the construction of "stages" and other necessary buildings, the regulations set forth in Article 6 of this protocol must be duly observed.

ARTICLE 11

Russian consuls in Mongolia, in case of need, shall avail themselves of Mongolian Government postal establishments and messengers for the dispatch of official correspondence, and for other official requirements, provided that the gratuitous requisition for this purpose shall not exceed one hundred horses and thirty camels per month. On every occasion, a courier's passport must be obtained from the Government of Mongolia. When travelling, Russian consuls, and Russian officials in general, shall avail themselves of the same establishments upon payment. The right to avail themselves of Mongolian Government "stages" shall be extended to private individuals, who are Russian subjects, upon payment for the use of such "stages" of amounts which shall be determined in agreement with the Mongolian Government.

ARTICLE 12

Russian subjects shall be granted the right to sail their own merchant-vessels on, and to trade with the inhabitants along the banks of, those rivers and their tributaries which, running first through Mongolia, subsequently enter Russian territory. The Russian Government shall afford the Government of Mongolia assistance in the improvement of navigation on these rivers, the establishment of the necessary beacons, etc. The Mongolian Government authorities shall assign on these rivers places for the berthing of vessels, for the construction of wharves and warehouses, for the preparation of fuel, etc., being guided on these occasions by the enactments of Article 6 of the present protocol.

ARTICLE 13

Russian subjects shall have the right to avail themselves of all land and water routes for the carriage of wares and the droving of cattle, and, upon agreement with the Mongolian authorities, they may construct, at their own cost, bridges, ferries, etc., with the right to exact a special due from persons crossing over.

ARTICLE 14

Travelling cattle, the property of Russian subjects, may stop for the purpose of resting and feeding. In the event of prolonged halts being necessary, the local authorities shall assign proper pasturage areas along

travelling cattle routes, and at cattle markets. Fees shall be exacted for the use of these pasturing areas for periods exceeding three months.

ARTICLE 15

The established usage of the Russian frontier population harvesting (hay), as also hunting and fishing, across the Mongolian border shall remain in force in the future without any alteration.

ARTICLE 16

Agreements between Russian subjects and institutions on the one side and Mongolians and Chinese on the other may be concluded verbally or in writing, and the contracting parties may present the agreement concluded to the local government authorities for certification. Should the latter see any objection to certifying the contract, they must immediately notify the fact to a Russian consul, and the misunderstanding which has arisen shall be settled in agreement with him.

It is hereby laid down that contracts respecting real estate must be in written form, and presented for certification and confirmation to the proper Mongolian Government authorities and a Russian consul. Documents bestowing rights to exploit natural resources require the confirmation of the Government of Mongolia.

In the event of disputes arising over agreements concluded verbally or in writing, the parties may settle the matter amicably with the assistance of arbitrators selected by each party. Should no settlement be reached by this method, the matter shall be decided by a mixed legal commission.

There shall be both permanent and temporary mixed legal commissions. Permanent commissions shall be instituted at the places of residence of Russian consuls, and shall consist of the consul, or his representative, and a delegate of the Mongolian authorities of corresponding rank. Temporary commissions shall be instituted at places other than those already specified, as cases arise, and shall consist of representatives of a Russian consul and the prince of that "khoshun" to which the defendant belongs or in which he resides. Mixed commissions shall be empowered to call in as experts persons with a knowledge of the case from among Russian subjects, Mongolians, and Chinese. The decisions of mixed legal commissions shall be put into execution without delay, in the case of Russian subjects through a Russian consul, and in the

case of Mongolians and Chinese through the prince of the "khoshun" to which the defendant belongs or in which he is resident.

ARTICLE 17

The present protocol shall come into force from the date of its signature.

In witness whereof, the respective plenipotentiaries, finding, upon comparison of the two parallel texts of the present protocol — Russian and Mongol — drawn up in duplicate, that the texts correspond, have signed each of them, affixed their seals, and exchanged texts.

Executed at Urga, the 21st October, 1912 (o. s.), and by the Mongolian calendar, on the twenty-fourth day of the last autumn moon, in the second year of the administration of the "Unanimously Proclaimed."

[In the original follow the signature of M. Korostovets, Minister Plenipotentiary; and in the Mongol language the signatures of the President of the Mongolian Council of Ministers, and the plenipotentiaries, the Ministers of the Interior, Foreign Affairs, War, Finance, and of Justice.]

DECLARATION BY NORWAY, DENMARK AND SWEDEN RELATIVE TO THE ESTABLISHMENT OF UNIFORM RULES OF NEUTRALITY¹

December 21, 1912

The Governments of Norway, Denmark, and Sweden, with a view to establishing uniform rules of neutrality in accord with the conventional stipulations signed at The Hague, having entered into negotiations which have resulted in an agreement upon all matters of principle, as is proved by the accompanying texts of the rules severally adopted by the three respective governments.

And fully appreciating how important it is that the agreement which so fortunately exists shall continue to remain in force,

Have agreed that no one of the three governments shall make changes in the rules approved by it without having previously notified the two others in ample time to admit of an exchange of views upon the matter.

¹ Translated from *Archives Diplomatiques*, January-March, 1913, pp. 125-128.

In witness whereof the undersigned, who have been duly authorized by their governments for this purpose, have signed the present declaration and have thereto affixed their seals.

Done in triplicate at Stockholm, December 21, 1912.

(L. S.) BRUNCHORST.

(L. S.) OTTO SCAVENIUS.

(L. S.) ALBERT EHRENSVAERD.

*Rules of Neutrality established by order of H. M. the King of Norway,
December 18, 1912*

CHAPTER I

The warships of belligerents are granted admission to ports and roads, as well as to all other territorial waters of the kingdom. Nevertheless this admission is subject to the following exceptions, restrictions and conditions.

1. (a) The warships of belligerents are forbidden access to ports and roads of war, which have been proclaimed as such.

(b) Such vessels are likewise forbidden access to interior waters, the entrance to which is barred either by submarine mines or by other means of defense.

(c) The king reserves the right to forbid, under the same conditions to the two belligerents, access to other Norwegian ports and roads and other limited portions of Norwegian interior waters, when there are special reasons and to safeguard the sovereign rights of the kingdom and the maintenance of its neutrality.

Interior waters include, in addition to ports, entrances to ports, roads and bays, the territorial waters situated between islands, islets, and reefs which are not constantly submerged, and between these and the mainland.

(d) The king likewise reserves the right to forbid access to the ports and roads of the kingdom to a warship of the belligerents which may have failed to comply with the rules and regulations decreed by the competent authorities of the kingdom, or which may have violated its neutrality.

2. (a) The warships of belligerents are required to respect the sovereign rights of the kingdom and to abstain from all acts which are contrary to its neutrality.

(b) All acts of hostility, including capture and the right of search, as regards both neutral vessels and vessels under the enemy's flag, are strictly forbidden in the territorial waters of the kingdom. If it should happen that a vessel has been captured in the territorial waters of the kingdom, the prize must be set free, with its officers, its crew and its cargo.

3. The simple passage of the warships and prizes of belligerents through the territorial waters of the kingdom is permitted only to the extent in which access to these waters is granted them. (See No. 1 above).

4. (a) The warships of belligerents are forbidden to remain in ports and roads, as well as in the other territorial waters of the kingdom, longer than twenty-four hours, except in case of damage or on account of the state of the sea or as a consequence of rules (c) and (d) which follow. In such cases they must depart as soon as the cause of the delay has ceased. The rules limiting the stay of vessels do not apply to warships which are exclusively on a religious, scientific or philanthropic mission, nor to military hospital ships.

(b) Not more than three warships of a belligerent may be in one of the ports or roads of the kingdom at the same time.

(c) If it should happen that warships of both of the belligerents are in one of the ports or roads of the kingdom at the same time, at least twenty-four hours must elapse between the departure of the vessel of one of the belligerents and the departure of the vessel of the other, the order of departure being determined by the order of arrival, unless the vessel first arrived should be entitled to prolong its stay.

(d) A belligerent warship cannot leave one of the ports or roads of the kingdom less than twenty-four hours after the departure of a vessel of commerce carrying the flag of its enemy. In such a case, the local authorities shall endeavor to arrange the departure of vessels of commerce in such a way as to obviate the necessity of prolonging the stay of the warship.

5. (a) The warships of belligerents can repair damages in the ports and roads of the kingdom only to such an extent as is essential for safe navigation, and they cannot increase their military force in any way. The authorities of the kingdom shall ascertain the nature of the repairs to be made. The repairs must be made as rapidly as possible.

(b) The warships of belligerents are forbidden to make use of the ports, roads and territorial waters of the kingdom for renewing or in-

creasing their military supplies or their armaments or to complete their crews.

(c) The warships of belligerents may be revictualled in the ports and roads of the kingdom only to the extent of completing their normal supplies in time of peace.

(d) The warships of belligerents may load fuel only to the extent of filling their bunkers properly so-called, including tanks for liquid fuel. Having loaded fuel in one of the ports or roads of the kingdom, they cannot replenish their supply in these ports or roads within three months therefrom.

6. (a) The warships of belligerents must employ the licensed pilots of the kingdom in entering and leaving the ports and roads; but they cannot employ the said pilots for any other purpose, except in case of distress in order to escape an imminent peril of the sea.

(b) The sanitary, pilot, customs, port and police regulations of the kingdom must be observed and respected by the warships of belligerents.

CHAPTER II

Privateers shall not be admitted either to the ports and roads or to the other territorial waters of the kingdom.

CHAPTER III

1. It is forbidden to bring a prize into the ports or roads of the kingdom, except in case of unnavigability, the dangerous condition of the sea, or lack of fuel or provisions. A prize which shall have been brought into one of the ports or roads of the kingdom for one of these reasons must leave as soon as the reason no longer exists.

2. No prize court may be constituted by a belligerent, either upon the soil of the kingdom or upon a vessel in its territorial waters. The sale of a prize in one of the ports or roads of the kingdom is likewise forbidden.

CHAPTER IV

1. Belligerents are forbidden to make the ports and waters of the kingdom bases for naval operations against their enemies.

Belligerents are especially forbidden to establish on the soil or in the territorial waters of the kingdom radiotelegraphic stations or any apparatus intended to serve as a means of communication with belligerent forces on land or sea.

2. Belligerents are forbidden to establish fuel depots, either upon the soil of the kingdom, or on vessels stationed in its territorial waters.

3. It is forbidden to equip or arm, within the jurisdiction of the kingdom, any vessel intended to cruise or take part in hostile operations against a Power which is at peace with the kingdom. It is likewise forbidden any vessel to leave the jurisdiction of the kingdom, which is intended to cruise or take part in hostile operations and which may have been adapted for purposes of war, wholly or in part, within the said jurisdiction.

TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN THE
REPUBLIC OF PERU AND THE REPUBLIC OF CUBA ¹

Signed at Lima April 24, 1912

The Peruvian Republic and the Republic of Cuba, desirous of maintaining and regulating, in a mutually advantageous and lasting manner, the cordial relations which happily exist between them, have decided to conclude a treaty of friendship, commerce and navigation, and for that purpose they have appointed their respective plenipotentiaries, that is to say:

His Excellency, the President of the Peruvian Republic: His Excellency, the Minister of Foreign Affairs, Señor Doctor Don German Leguía y Martinez,

And His Excellency, the President of the Republic of Cuba: His Excellency, the Envoy Extraordinary and Minister Plenipotentiary of Cuba to Peru, Señor Don Manuel Marquez Sterling y Loret de Mola;

Who, after having communicated to each other their respective full powers, which were found in good and due form, have agreed upon the following articles:

ARTICLE I

There shall be perfect peace and perpetual friendship between the Peruvian Republic and the Republic of Cuba, as well as between the citizens of the two nations.

¹ Translated from the *Boletín de Relaciones Exteriores* (Peru), Vol. 45, pages 86-106.

ARTICLE II

Cubans in the Republic of Peru and Peruvians in the Republic of Cuba, shall have the most complete and constant protection, as well in their persons as in their property. In consequence, they shall have the right to appear, to claim their rights, before all courts of justice whatsoever, in all degrees of jurisdiction, according to the circumstances of the case and pursuant to the laws of the country, and with the same privileges and immunities already granted, or that may be granted to nationals, so that their civil rights and condition shall exactly correspond with those of the latter.

ARTICLE III

Cubans in Peru as well as Peruvians in Cuba shall have the right of acquiring any kind of property, real or personal, by purchase, gift, exchange, marital participation or by any other means; and of fully disposing of the same in any of the ways permitted by law. Their heirs and legatees shall, in the same manner, be allowed to enter into possession of the inheritance, with or without testament, either by themselves or by their duly authorized agents, without let or hindrance whatsoever, and shall be under no obligation to pay more taxes upon the descent and transfer of property than shall be paid by the nationals of the country where such property is situate. In the absence of heirs or legal representatives, the property, personal or real, shall be treated in the same manner as the property of natives would be treated.

ARTICLE IV

Cubans in Peru and Peruvians in Cuba shall not be liable to arrest or imprisonment without a written warrant issued by a competent court or authority charged with the preservation of the public peace. Nor shall they be liable to banishment from the territories or to be transported from one point to another within the same, without a previous compliance with the legal forms and the fact being communicated to the respective diplomatic or consular agents, so that the latter may take the proper steps for the safeguarding and custody of their property and the property belonging to third parties which may be in their possession.

ARTICLE V

Cubans in Peru and Peruvians in Cuba shall be exempt from all personal service in the national navy, army and militia, guards or reserves,

as well as from all requisitions or military exactions and from any forced loans, either pecuniary or in kind; unless such requisitions, exactions or loans shall be levied or imposed upon the realty, in which case the citizens of both nations shall pay them in the same manner and to an equal extent as nationals. In all other cases, they shall not be burdened in respect to their property, personal as well as real, with other charges or excises than those to which the nationals themselves shall be subject.

ARTICLE VI

The Peruvian Republic and the Republic of Cuba agree that there shall be, reciprocally, full and complete freedom of commerce and navigation for the nationals and vessels of the high contracting parties, in the cities, ports or other places of both of the two states. With regard to the Amazon river, Peru grants to the Republic of Cuba the right of navigating, freely and under its own flag, from the boundary line with Brazil to Iquitos, in which section the same rights and concessions made to all other countries are also granted to the merchant shipping of the Republic of Cuba.

As regards all other rivers, Peru shall permit the Republic of Cuba to enter therein as soon as it shall permit such entry to the subjects or to the vessels of other nations.

ARTICLE VII

The facilities and exemptions which either of the contracting parties shall have granted or henceforward shall grant to neighboring or contiguous states, in order to promote the traffic about the frontier or neighboring regions, whatsoever the boundary lines may be, whether land, fluvial or maritime lines, shall not be claimed as of right, neither those of Peru by Cuba, nor those of Cuba by Peru, so long as such facilities and exemptions shall not be granted to other non-adjacent and remote states.

ARTICLE VIII

Cubans in Peru and Peruvians in Cuba shall reciprocally have the right to enter, travel or reside with entire liberty, within any of the respective territories; to engage in any industry or commerce whether wholesale or retail; to lease or to possess warehouses, buildings, establishments, or lands necessary thereto, to transport goods or money, and to receive consignments from the interior as well as from abroad,

on paying the duties and licenses prescribed by the laws in force for nationals. They shall equally be at liberty, in their sales or purchases, to stipulate and fix the price of the merchandise, effects and objects of any kind, imported as well as domestic; whether they shall sell them in the interior or whether they shall intend them for export, but always adjusting themselves to the laws, rules and regulations of the country.

ARTICLE IX

Cubans in the Peruvian Republic and Peruvians in the Republic of Cuba shall be allowed to carry on and manage their business by themselves or to be represented or assisted by persons duly authorized, whether in the purchase or sale of their property, effects or merchandise, in their custom declarations, or in the loading or unloading or transport of their shipping; and they shall not be subject to other charges, taxes, duties or imposts than those to which nationals shall be subject.

ARTICLE X

The dwellings, factories, warehouses and stores of the citizens of each of the contracting parties situated within the jurisdiction of the other, and all premises appertaining thereto, whether intended as dwellings or for commerce, shall be respected. It shall not be permitted to make searches of or domiciliary visits to such dwellings and premises, nor to examine or to inspect books, papers or accounts, except under the conditions and with the formalities prescribed by law with respect to natives of the country; nor shall the vessels or merchandise of Cubans in the territory of Peru, or of Peruvians in the territory of Cuba, be subject to seizure or condemnation for military expeditions nor for any other public or private purpose without granting to those injured thereby due compensation according to the manner and form in which the same may be granted to nationals.

ARTICLE XI

The Republic of Cuba and the Republic of Peru, with regard to the ownership of trade marks and trade names, as well as with reference to the protection of patents of invention, industrial designs and models and literary and artistic copyrights, agree to accord to the citizens of each of the two high contracting parties, in the territory of the other,

the same treatment which shall be accorded to the citizens and subjects of all other nations.

ARTICLE XII

Cuban vessels that shall come to the ports of Peru and Peruvian vessels that shall go to the ports of Cuba, with cargo or in ballast, shall pay no other or higher duties of tonnage, port, lighthouse, pilotage, quarantine, or others that may affect the vessel's hulk, than those to which the vessels of other states are or shall be subject.

In all that concerns local treatment, placing of ships, loading or unloading, as well as to duties or imposts of ports, basins, docks, anchoring-grounds, havens and rivers of the two countries, and generally with respect to all the formalities and orders to which the merchant vessels, their crews and cargoes may be subject, the privileges, favors, or advantages that shall have been or that shall be granted to the vessels of the other nations, as well as to merchandise imported or exported by those vessels, shall equally be granted to the vessels of the other country and to the merchandise that they may import or export.

ARTICLE XIII

In all things concerning the police of ports, loading and unloading of vessels and the keeping of the goods and merchandise, the citizens of each country shall be subject to the local laws and ordinances of the other country.

ARTICLE XIV

Navigation, tonnage and other duties which are not based upon the capacity of vessels, shall be collected, with regard to the Peruvian vessels in the ports of Cuba, according to the documents of registration of the ship.

The same course shall be pursued with regard to the Cuban vessels in the ports of Peru.

ARTICLE XV

The provisions of the present treaty are not applicable to the coast-wise shipping, whose regimen shall remain subject to the respective laws of the contracting states; provided, however, that the Cuban vessels in Peru, and the Peruvian vessels in Cuba shall be allowed to unload a portion of their cargo at the port of first arrival, and proceed immediately, with the remaining cargo, to other ports of the same state, whether to

finish unloading the same or to complete loading their return cargo, without paying, at either port, other or higher duties than those paid in similar cases by the vessels of other nations.

ARTICLE XVI

Whenever the citizens of either of the two contracting parties, in consequence of stress of weather, damage to the hull or rigging, lack of water, coal or provisions, or any other reason, shall take refuge with their vessels in the ports, basins or territories of the other party, they shall be received and treated as citizens of a friendly nation, subject, however, to the precautionary measures necessary to prevent smuggling. They shall be granted every facility and assistance for repairing the damages suffered, for procuring provisions, and getting into proper condition to continue the voyage, without any obstacle or impediment whatever.

If it should be necessary to unload part of the cargo, or all of it, that portion which shall be unloaded and reshipped shall be liable for the expense incurred for labor and storage. Whenever it shall become necessary to sell only a part of the cargo, to pay the expense of putting into port in distress, the proceeds of such sale shall be subject to the payment of the import duties, if such duties shall be laid thereupon according to law. If a vessel, after being repaired and put in perfect condition of seaworthiness to continue her voyage, should remain in port for more than forty-eight hours, it shall be subject to the payment of duties and other port charges; and if during her demurrage any mercantile transaction shall be engaged in the vessel, as well as the effects unloaded and the products taken on board, shall be subject to the same duties and imposts established by the laws, rules and regulations, as if her arrival had been voluntary.

ARTICLE XVII

The vessels that shall sail under the flag of either country and keep the registers and documents required by the laws of that country for the identification of the nationality of merchant vessels, shall be considered while in the ports of the other country, as vessels of the country under whose flag they sail.

ARTICLE XVIII

If a war ship or merchant vessel belonging to one of the contracting parties should be stranded or wrecked within the territory of the other,

this vessel and all her parts, rigging and appurtenances, as well as the goods and merchandise rescued, including those thrown overboard or the proceeds therefrom, if sold, and the papers found on board of the stranded or wrecked vessel, shall be delivered to her owners or their agents as soon as claimed by them within the time fixed by law, and said owners or agents shall only pay the expenses that may have been occasioned by the preserving of the property, as well as those of salvage and other expenses which a national vessel should pay in a similar case of wreckage. The goods and merchandise recovered from the wreckage shall be exempt from custom duties, unless cleared for consumption, in which case they shall pay the same duties as would have been paid if they had been imported in a national vessel. In case that, on account of stress of weather, a ship should take refuge in a port, or should be stranded or wrecked, the Consuls General, Consuls, Vice-Consuls and Consular Agents, if neither the ship-owners, nor the captain, nor any other agent of the owner should be present, or, if being present, they should request it, shall be authorized to intervene and convey the necessary assistance to their compatriots. Said Consuls General, Consuls, Vice-Consuls and Consular Agents shall have jurisdiction and authority over all actions whatsoever of the ship-wrecked people as well as over the collection and adjustment of the general average, according to the laws of their country; provided that only his co-nationals shall be interested in said average. In other cases, the local authorities only shall have jurisdiction over the same.

ARTICLE XIX

The merchant vessels of either of the parties whose crews shall be incomplete on account of death or other causes, shall be allowed, within the territory of the other to engage the sailors necessary to proceed on their voyages, in accordance, however, with the local laws and ordinances, and under the condition that the engagement of the sailors shall be strictly voluntary on the part of the sailors.

ARTICLE XX

Excepting the case of a judicial sale, the vessels of each of the contracting parties shall not acquire the nationality of the other without a previous certificate of disclaimer of the flag, issued by the proper authorities of the state to which said vessel belongs.

ARTICLE XXI

Bearing in mind that the interoceanic canal which the United States of America is at present building across the Isthmus of Panama is nearing its completion, and the facility with which the Republic of Peru and the Republic of Cuba, thenceforth shall be able to establish directly between themselves an advantageous commercial intercourse which shall invigorate the development of their industries and tighten closer the traditional bonds which unite both countries, the high contracting parties pledge themselves, from this instant employing all means and resources within their reach, to promote, when the Panama Canal shall be finished and opened to the traffic, the direct communication between Cuban and Peruvian ports, and to favor it whenever possible, by granting adequate privileges and advantages to the steamship lines that shall regularly navigate and transport freight, correspondence and passengers, between Peruvian and Cuban territories, or by granting privileges and advantages to the companies of other states which, stopping at the ports of Peru and Cuba, under fixed schedules, shall contribute to the end which is sought by the present clause.

ARTICLE XXII

The vessels in charge of the postal service and belonging to either of the two states, or to companies subsidized by either of them, shall enjoy in the ports of the other the same special privileges incident to the public service to which they shall belong, as well as all other privileges, immunities and favors granted to the postal vessels of other nations.

ARTICLE XXIII

The war vessels of each one of the two nations shall be able to enter, demur and repair damages in those ports of the other, where entry shall be permitted to those of all other states, subject to the same rules and favored with the same honors, advantages, privileges or exemptions which shall have been granted to other states.

ARTICLE XXIV

The merchant vessels of each one of the contracting parties, in the territory of the other, shall be subject to the sanitation laws and authorities, and shall not, in any case, be allowed to avoid complying with

their precepts and provisions. Cuban war vessels in Peru and Peruvian war vessels in Cuba, shall also be subject to the local sanitation laws, and the authorities shall apply to them the rules which they shall judge indispensable and proper, under the circumstances.

ARTICLE XXV

The Peruvian Republic and the Republic of Cuba agree to grant, reciprocally, to their diplomatic agents, the privileges, favors and exemptions which are secured to them by the law of nations; provided that all favors, immunities and privileges that the Peruvian Republic and the Republic of Cuba shall deem advisable to grant to the diplomatic agents of any other Power, shall be, *ipso facto*, extended and granted to those of the contracting parties.

ARTICLE XXVI

The contracting parties, animated by the desire of avoiding differences and litigation which might affect their friendly relations, exclude from diplomatic intervention all cases of claims or complaints made by private individuals affecting matters of a civil, criminal or administrative nature; excepting the cases of denial of justice, extraordinary and illegal delay of justice, failure to give effect to a final judgment, or, after the legal resources have been exhausted, express violation of the existing treaties or of the rules of public as well as private international law which are generally admitted by all civilized nations.

ARTICLE XXVII

In consequence of the principle that the citizens of each one of the high contracting parties shall enjoy within the territory of the other the same rights as the nationals, it is declared that the damages caused by armed factions in case of political uprisings, or by private individuals, or by any sort of unavoidable accident, shall not give rise to claims for special indemnifications. The respective governments, except when there shall be any fault or lack of vigilance on the part of the authorities or their agents, shall not, reciprocally, be held responsible for the extortions or outrages which the citizens of one of the parties shall suffer within the territory of the other in time of civil war. Each government shall be obliged to grant the citizens of the other party, within

its territory, the same protection in their persons and property as is granted its own citizens.

ARTICLE XXVIII

In order to make the protection which the Peruvian Republic and the Republic of Cuba grant to commerce and navigation more effective, both parties agree to receive and admit Consuls General, Consuls and Vice-Consuls in all the ports opened to foreign commerce. These functionaries shall enjoy, within their respective districts, all the rights, privileges and immunities which are accorded to them by the law of nations. In order that the Consuls General, Consuls and Vice-Consuls of the two contracting parties may enjoy the rights, privileges and immunities which belong to them and may exercise their public functions, it shall be necessary for them to present, with authority, their credentials or commissions in due form, so that they may obtain the corresponding exequatur; and from the time the exequatur is granted, they shall be deemed and held as such Consuls General, Consuls and Vice-Consuls by all the authorities, magistrates and inhabitants of their consular district.

ARTICLE XXIX

The archives and official papers of consular functionaries shall be inviolable; on no account shall the authorities of the country to which they are accredited lay any embargo upon, or take cognizance of the same.

ARTICLE XXX

The Consuls General, Consuls and Vice-Consuls, citizens of the state that shall appoint them, shall be exempt from any public office or service as well as from direct personal taxes and all extraordinary taxes. But if such agents are citizens of the country to which they are appointed, or if they are merchants or possessed of any immovable property in the same, they shall be with regard to offices, services and taxes, subject to the same obligations as are all other citizens.

ARTICLE XXXI

It is stipulated that, in the absence of legal heirs or their representatives, the Consuls General, Consuls and Vice-Consuls of each of the parties, shall be, *ex officio*, executors or administrators of the estates of such citizens of their nation as shall have died intestate within their

consular districts and of those intestates who shall die at sea and whose property shall be brought into a port or place included in the aforesaid districts. In either case, this consular representation shall cease as soon as any person entitled to the intestate's estate shall appear.

The consular representation contemplated in this article shall embrace every right and power which might belong to the persons entitled by law to the succession, excepting the receiving of money or effects, in which case special leave or authority shall always be necessary, said moneys or effects being in the meantime deposited with such persons as shall be designated by the court to the satisfaction of the Consul and local authorities. It is understood that all such estates as shall consist of landed interests shall follow, for its descent and distribution, the laws of the nation in respect to foreigners, where the landed interest is situated.

ARTICLE XXXII

The Consuls of either of the contracting parties, in the cities, ports and places of a third Power, where there is no Consul of the other party, shall extend to the persons and property of the nationals of the latter the same protection as they shall extend to the persons and property of their compatriots in so far as their powers shall permit it, without demanding on this account any other fees or emoluments than those which are authorized with regard to their nationals.

ARTICLE XXXIII

In order to protect the commerce and navigation of both states in a more effective manner, said states pledge themselves to conclude as soon as it may be possible, a consular convention which shall regulate the powers and exemptions of their Consuls General, Consuls and Vice-Consuls. In the meantime, however, each of the contracting parties reserves unto itself the right to except those ports and places of its territory in which it shall judge the admission and residence of Consuls General, Consuls and Vice-Consuls of the other party inadvisable; which exclusion or denial shall in all cases be common and general for all nations.

They also declare that their Consuls General, Consuls and Vice-Consuls shall exclusively take cognizance of such questions as may arise between the captains, officers and sailors, relative to contracts and salaries; the local authorities intervening only in cases of disorder amount-

ing to breaches of the tranquility of the port and public peace either on land or upon the territorial waters; or when in such disorders there shall be implicated some native person, or some person outside the crew; or in order to assist and help the Consular Agents who shall require it; provided that the purpose and the measure to be taken shall not exceed the scope or the time allowed by the constitution or the laws in force at the place.

ARTICLE XXXIV

The provisions of the present treaty are not applicable to the industry of fisheries, whose exercise remains in the respective territory subject to the laws of each state.

ARTICLE XXXV

Each of the high contracting parties, in order to avoid friction which might alter their fraternal relations, agrees to abstain from sending to the territory of the other party, immigration agents who shall try to influence laborers to emigrate to the other country. It is equally agreed by each party to subject the immigration agents, officers or other persons belonging to any company or corporation, of the other party to the local penal laws, reserving unto itself the right to expel them from the territory, whenever the authorities shall thus prefer it, without any other requisite, once the guilt has been established, than to previously report the fact, by courtesy, to the legation of the other party.

ARTICLE XXXVI

If by misfortune peace between the two states should be interrupted, it is agreed with the object of diminishing the evils of war, that the citizens of each of them residing in the cities, ports and territories of the other and who shall be there engaged in commerce or any other profession, shall be allowed to keep their residence and to continue their business, provided they shall not be guilty of any violation of the laws of the country. In case their conduct should make them forfeit such privileges, or whenever the respective government shall judge it necessary to make them leave its territories, they shall be granted a length of time sufficient to arrange their affairs. In no case of war or collision between the two nations, shall the goods, effects and property of any description belonging to their citizens, be subject to seizure or any

embargo whatsoever, nor to any charges or imposts other than those exacted from the nationals. In the same manner, during the interruption of peace, neither shall debts owed by private persons, nor the government bonds, nor bank shares or any other kind of stock be attached, seized or confiscated to the detriment of the respective citizens and benefit of the country of their residence.

ARTICLE XXXVII

The Peruvian Republic and the Republic of Cuba agree to recognize the following principles in case of war between either of them with a third nation:

1. The vessels of that one of the two contracting parties which shall remain neutral, shall be able to navigate freely from hostile ports and places to neutral ports and places, or from a neutral port or place to a hostile port or place, or from a hostile port or place to another hostile port or place, excepting such ports and places as may be blockaded; and in all these cases any property on board of such vessels shall be free whoever shall be its owner, excepting contraband of war. Every person on board of the neutral vessel shall be equally free, even although such person be a citizen of the hostile nation, provided he is not in the actual service of the hostile government, nor bound for such service.

2. The persons and property of the citizens of that one of the two contracting parties which shall remain neutral, shall, in case of war by the other, be free from all detention and confiscation, even although they shall be found on board of a hostile vessel, unless such persons shall be in the enemy's service or bound for the same, or unless the property shall be of such a description as constitutes contraband of war.

3. The stipulations contained in this article, declaring that the flag covers property and persons, shall be applied only to those Powers which already recognize or which in the future shall recognize this principle, and not to any others.

ARTICLE XXXVIII

The freedom of commerce and navigation stipulated in the previous clauses shall be extended to all kinds of merchandise, excepting only those articles classified as contraband of war, a denomination in which are comprised:

1. The cannon, mortars, guns, rifles, carbines, pistols, swords, sabres,

grenades and bombs, gunpowder, dynamite and all other explosive substances known to be for use in war; fuses, cannon balls, torpedoes and everything else pertaining to the use of such arms.

2. Shields, helmets and garments made in form and for military use.

3. Cartridge-belts and horses and their harnesses; and

4. All species of offensive and defensive arms, made of iron, steel, bronze, copper and other materials expressly manufactured, prepared or shaped to wage war either on land or upon the sea.

ARTICLE XXXIX

Any other merchandise or objects not included among those expressly enumerated in the preceding article, shall be considered as matter of free and legitimate commerce: they shall be carried and transported, freely, by the citizens of the two contracting states, to ports or places belonging to the enemy, excepting only such as shall be, at that time, besieged or blockaded, surrounded or attacked by a force strong enough to prevent neutrals from entering the same.

ARTICLE XL

The merchandise and objects enumerated and classified as contraband of war, which shall be found on board a vessel bound for any hostile port or place, shall be subject to detention and confiscation, leaving the rest of the cargo and the vessel itself free and at the disposal of their owners. No vessel belonging to any of the contracting parties shall be detained on the high seas on account of having on board merchandise and objects of contraband of war, provided the captain or supercargo of said vessel shall deliver the merchandise and objects of contraband of war to the captor. If the bulkiness or quantity of such merchandise and objects should render it impossible to receive them on board the capturing ship, the vessel shall be sent to a convenient, immediate and secure port to be there tried according to law.

ARTICLE XLI

The Republic of Peru and the Republic of Cuba recognize the right which each of them reserves unto itself in case of war with a third Power, to visit and examine the ships and their cargoes of the two contracting parties on the high seas. In order to prevent disorders during

the visiting and examining procedure they agree that whenever an armed vessel of the belligerent party shall meet with a neutral vessel of the other party, the former shall remain at the farthest distance consistent with the possibility and certainty of executing the visit upon the latter, the circumstances of wind and sea being considered; and shall send one of her small boats, with no other persons on board than those necessary to man the same, in order to make the inspection of the papers relative to the ownership and cargo of the vessel. In no case shall it be required that the neutral party shall go on board the armed vessel in order to exhibit her documents, nor for any other purpose; and the commanders of the armed vessels shall be held responsible, with their persons and property, for the damages and injuries which they shall wilfully cause to the neutral.

ARTICLE XLII

The high contracting parties are of accord that, in case one of them shall be engaged in war, every vessel of the other shall be provided with sea-letters, letters-patent or passports, in which shall be stated the name and size of the vessel and the name, nationality and residence of her owners, in order that it shall appear from them that the vessel belongs to citizens of the neutral party. They are equally of accord that, besides the sea-letters, letters-patent, or passports, the vessels shall carry manifests or certificates issued by the authorities of the port of sailing. In order to ascertain whether there are on board prohibited effects or contraband of war, these manifests or certificates shall contain the details of their cargo and state the place where the same was shipped. Without these manifests and certificates the vessel may be detained, in order to subject her to the proper court having jurisdiction, or to declare her a legal prize, unless it shall be proved that the omission was due to accident, or shall be replaced instead by a testimonial to the satisfaction of the aforesaid court.

ARTICLE XLIII

Both states agree that the stipulations contained in the present treaty, relative to the examining and visiting of neutral merchant vessels, shall be applicable only to those which shall navigate without convoy; the written declaration of the commander upon his word of honor stating that the vessel under his command belongs to the nation whose flag they carry being sufficient in other cases; and whenever they shall be

bound for a hostile port, upon the written declaration of the commander upon his word of honor that they do not carry contraband of war.

ARTICLE XLIV

Considering that it frequently happens that vessels will navigate towards a port or place belonging to the enemy not knowing that such are besieged or blockaded, the high contracting parties agree that, all vessels which shall be found in such condition, may be prevented from entering the port, but neither the vessel herself nor any part of her cargo which is not contraband of war shall be detained or confiscated; unless said vessel shall again attempt an entry after having been apprised of the blockade and siege by the commander of one of the blockading vessels, by means of a notation made by himself on the charter of the merchant vessel, mentioning the date and latitude or longitude in which said notation was made, and saving, as to the cargo, the case in which the latter shall belong to a person different from the owner of the ship, and said owner shall succeed in proving that he had no knowledge of the violation of the blockade.

ARTICLE XLV

No vessel of either of the contracting parties, which shall have entered a port before its being besieged, blockaded or attacked by the other party, shall be prevented from unloading her cargo; nor be subject with it to confiscation or to any demand whatsoever, on account of being there before or after the reduction or surrender; but the owners shall be undisturbed in the peaceful possession of their property. If a vessel which entered the port before the blockade had been established should afterwards take on board a cargo, she shall be apprised by the blockading forces of the necessity of returning to the said port and leaving her cargo there. If after having received this notice, she should persist in departing with her cargo, she shall expose herself, without responsibility to the blockading party, to the same consequences as the vessel is exposed which attempts to enter the port, after receipt of the proper notice from the blockading forces.

ARTICLE XLVI

It is stipulated that prize causes shall be decided by special courts created for that purpose by the respective laws of each republic; and

that these courts shall be the only ones that shall take cognizance of such causes. Whenever the aforesaid courts of either party shall render any decision relating to any vessel, effects or property, claimed by citizens of the other party, the sentence or decision shall set forth the reasons or causes upon which the court shall rest the same; and an authenticated copy of the sentence or of all the record, provided the legal fees are paid, shall be delivered to the commander or agent of said vessel or property, if they should thus request it.

ARTICLE XLVII

The contracting states desiring to maintain firm and lasting their friendly relations, are of accord and agree that if any citizen or citizens of either contracting party, shall infringe any of the articles of this treaty or any one or some of the stipulations existing between the two countries, the infringer or infringers shall be held personally responsible for the infraction, without thereby disturbing or interrupting the harmony and friendly relations between the two republics, which by these presents pledge themselves not to protect the infringers nor to authorize in any sense said infractions.

ARTICLE XLVIII

Nothing contained in this treaty shall be construed in any manner to produce an effect contrary to the treaties previously concluded with other nations and still in force.

ARTICLE XLIX

The controversies that may arise over the interpretation or execution of this compact or consequences which may follow its possible violations, shall be submitted, when the means for a direct settlement through diplomatic channel shall be exhausted, to the Permanent Court of Arbitration at The Hague; it being well understood, that, in case one of the two high contracting parties shall thus prefer it, the arbitration shall take place before the chief magistrate of a friendly state, or before arbiters selected, without limitation, from the lists of the aforesaid Permanent Court of Arbitration at The Hague.

ARTICLE L

The present treaty shall be perpetual with regard to the stipulations in Article I; and with regard to all others, it shall extend for a term

of ten years, to be computed from the day on which the exchange of ratifications shall take place; in case that neither of the two contracting parties shall have notified the other, within twelve months previous to the expiration of said period of ten years, of its intention to terminate the same, it shall continue in force and effect for another year until the expiration of a year, to be computed from the date in which one of the parties shall make this notification of denouncement to the other.

ARTICLE LI

The President of the Republic of Peru, with the approval of the Congress, and the President of the Republic of Cuba, with the previous approval of the Senate, shall ratify this convention, and the ratifications thereof shall be exchanged at Lima or at Havana within the shortest possible time.

In faith whereof, both plenipotentiaries have signed the present treaty, in duplicate, and hereunto affixed their individual seals, at the city of Lima, this twenty-fourth day of April, one thousand nine hundred and twelve.

GERMÁN LEGUÍA Y MARTINEZ

MANUEL MÁRQUEZ STERLING Y LORET DE MOLA

PANAMA CANAL TOLLS¹

The Secretary of State to Chargé d'Affaires Laughlin

No. 1833.]

DEPARTMENT OF STATE,
Washington, January 17, 1913.

IRWIN B. LAUGHLIN, ESQUIRE,

American Chargé d'Affaires, London, England.

SIR: I enclose a copy of an instruction from Sir Edward Grey to His Britannic Majesty's Ambassador at Washington, dated November 14, 1912, a copy of which was handed to me by the Ambassador on the 9th ultimo, in which certain provisions in the Panama Canal

¹ Printed from pamphlet issued by the Department of State.

Act of August 24th last are discussed in their relation to the Hay-Pauncefote Treaty of November 18, 1901; and I also enclose a copy of the note addressed to me on July 8, 1912, by Mr. A. Mitchell Innes, His Britannic Majesty's Chargé d'Affaires, stating the objections which his government entertained to the legislation relating to the Panama Canal, which was then under discussion in Congress. A copy of the President's proclamation of November 13, 1912, fixing the canal tolls, is also enclosed.

Sir Edward Grey's communication, after setting forth the several grounds upon which the British Government believe the provisions of the Act are inconsistent with the stipulations of the Hay-Pauncefote Treaty, states the readiness of his government "to submit the question to arbitration if the Government of the United States would prefer to take this course" rather than "to take such steps as would remove the objections to the Act which His Majesty's Government have stated." It, therefore, becomes necessary for this government to examine these objections in order to ascertain exactly in what respects this Act is regarded by the British Government as inconsistent with the provisions of that treaty, and also to explain the views of this government upon the questions thus presented, and to consider the advisability at this time of submitting any of these questions to arbitration.

It may be stated at the outset that this government does not agree with the interpretation placed by Sir Edward Grey upon the Hay-Pauncefote Treaty, or upon the Clayton-Bulwer Treaty, but for reasons which will appear hereinbelow it is not deemed necessary at present to amplify or reiterate the views of this government upon the meaning of those treaties.

In Sir Edward Grey's communication, after explaining in detail the views taken by his government as to the proper interpretation of the Hay-Pauncefote Treaty, "so as to indicate the limitations which" His Majesty's Government "consider it imposes upon the freedom of action of the United States," he proceeds to indicate the points in which the Canal Act infringes what he holds to be Great Britain's treaty rights.

It is obvious from the whole tenor of Sir Edward Grey's communication that in writing it he could not have taken cognizance of the President's proclamation fixing the canal tolls. Indeed, a comparison of the dates of the proclamation and the note, which are dated respectively November 13th and November 14th last, shows that the proclamation could hardly have been received in London in time for consideration

in the note. Throughout his discussion of the subject, Sir Edward Grey deals chiefly with the possibilities of what the President might do under the Act, which in itself does not prescribe the tolls, but merely authorizes the President to do so; and nowhere does the note indicate that Sir Edward Grey was aware of what the President actually had done in issuing this proclamation. The proclamation, therefore, has entirely changed the situation which is discussed by Sir Edward Grey, and the diplomatic discussion, which his note now makes inevitable, must rest upon the bases as they exist at present, and not upon the hypothesis formed by the British Government at the time this note was written.

Sir Edward Grey presents the question of conflict between the Act and the treaty in the following language:

It remains to consider whether the Panama Canal Act, in its present form, conflicts with the treaty rights to which His Majesty's Government maintain they are entitled.

Under section 5 of the Act the President is given, within certain defined limits, the right to fix the tolls, but no tolls are to be levied upon ships engaged in the coastwise trade of the United States, and the tolls, when based upon net registered tonnage for ships of commerce, are not to exceed 1 dollar 25 c. per net registered ton, nor be less, *other than for vessels of the United States and its citizens*, than the estimated proportionate cost of the actual maintenance and operation of the Canal. There is also an exception for the exemptions granted by article 19 of the Convention with Panama of 1903.

The effect of these provisions is that vessels engaged in the coastwise trade will contribute nothing to the upkeep of the Canal. Similarly vessels belonging to the Government of the Republic of Panama will, in pursuance of the treaty of 1903, contribute nothing to the upkeep of the Canal. Again, in the cases where tolls are levied, the tolls in the case of ships belonging to the United States and its citizens may be fixed at a lower rate than in the case of foreign ships, and may be less than the estimated proportionate cost of the actual maintenance and operation of the Canal.

These provisions (1) clearly conflict with the rule embodied in the principle established in article 8 of the Clayton-Bulwer Treaty of equal treatment for British and United States ships, and (2) would enable tolls to be fixed which would not be just and equitable, and would therefore not comply with rule 1 of article 3 of the Hay-Pauncefote Treaty.

From this it appears that three objections are made to the provisions of the Act; first, that no tolls are to be levied upon ships engaged in the coastwise trade of the United States; second, that a discretion appears to be given to the President to discriminate in fixing tolls in favor of

ships belonging to the United States and its citizens as against foreign ships; and third, that an exemption has been given to the vessels of the Republic of Panama under Article 19 of the Convention with Panama of 1903.

Considered in the reverse order of their statement, the third objection, coming at this time, is a great and complete surprise to this government. The exemption under that article applies only to the government vessels of Panama, and was part of the agreement with Panama under which the canal was built. The convention containing the exemption was ratified in 1904, and since then to the present time no claim has been made by Great Britain that it conflicted with British rights. The United States has always asserted the principle that the status of the countries immediately concerned by reason of their political relation to the territory in which the canal was to be constructed was different from that of all other countries. The Hay-Herran Treaty with Colombia of 1903 also provided that the war vessels of that country were to be given free passage. It has always been supposed by this government that Great Britain recognized the propriety of the exemptions made in both of those treaties. It is not believed, therefore, that the British Government intend to be understood as proposing arbitration upon the question of whether or not this provision of the Act, which in accordance with our treaty with Panama exempts from tolls the government vessels of Panama, is in conflict with the provisions of the Hay-Pauncefote Treaty.

Considering the second objection based upon the discretion thought to be conferred upon the President to discriminate in favor of ships belonging to the United States and its citizens, it is sufficient, in view of the fact that the President's proclamation fixing the tolls was silent on the subject, to quote the language used by the President in the memorandum attached to the Act at the time of signature, in which he says:

It is not, therefore, necessary to discuss the policy of such discrimination until the question may arise in the exercise of the President's discretion.

On this point no question has as yet arisen which, in the words of the existing arbitration treaty between the United States and Great Britain, "it may not have been possible to settle by diplomacy," and until then any suggestion of arbitration may well be regarded as premature.

It is not believed, however, that in the objection now under consideration Great Britain intends to question the right of the United States to exempt from the payment of tolls its vessels of war and other vessels engaged in the service of this government. Great Britain does not challenge the right of the United States to protect the canal. United States vessels of war and those employed in government service are a part of our protective system. By the Hay-Pauncefote Treaty we assume the sole responsibility for its neutralization. It is inconceivable that this government should be required to pay canal tolls for the vessels used for protecting the canal, which we alone must protect. The movements of United States vessels in executing governmental policies of protection are not susceptible of explanation or differentiation. The United States could not be called upon to explain what relation the movement of a particular vessel through the canal has to its protection. The British objection, therefore, is understood as having no relation to the use of the canal by vessels in the service of the United States Government.

Regarding the first objection, the question presented by Sir Edward Grey arises solely upon the exemption in the Canal Act of vessels engaged in our coastwise trade.

On this point Sir Edward Grey says that "His Majesty's Government do not question the right of the United States to grant subsidies to United States shipping generally, or to any particular branches of that shipping," and it is admitted in his note that the exemption of certain classes of ships would be "a form of subsidy" to those vessels; but it appears from the note that His Majesty's Government would regard that form of subsidy as objectionable under the treaty if the effect of such subsidy would be "to impose upon British or other foreign shipping an unfair share of the burden of the upkeep of the Canal, or to create a discrimination in respect of the conditions or charges of traffic, or otherwise to prejudice rights secured to British shipping by this Treaty."

It is not contended by Great Britain that equality of treatment has any reference to British participation in the coastwise trade of the United States, which, in accordance with general usage, is reserved to American ships. The objection is only to such exemption of that trade from toll payments as may adversely affect British rights to equal treatment in the payment of tolls, or to just and equitable tolls. It will be helpful here to recall that we are now only engaged in considering (quot-

ing from Sir Edward Grey's note) "whether the Panama Canal Act in its present form conflicts with the treaty rights to which His Majesty's Government maintain they are entitled," concerning which he concludes:

These provisions (1) clearly conflict with the rule embodied in the principle established in article 8 of the Clayton-Bulwer Treaty of equal treatment for British and United States ships, and (2) *would enable* tolls to be fixed which would not be just and equitable, and would therefore not comply with rule 1 of article 3 of the Hay-Pauncefote Treaty.

On the first of these points the objection of the British Government to the exemption of vessels engaged in the coastwise trade of the United States is stated as follows:

* * * the exemption will, in the opinion of His Majesty's Government, be a violation of the equal treatment secured by the treaty, as it will put the "coastwise trade" in a preferential position as regards other shipping. Coastwise trade cannot be circumscribed so completely that benefits conferred upon it will not affect vessels engaged in the foreign trade. To take an example, if cargo intended for an United States port beyond the Canal, either from east or west, and shipped on board a foreign ship could be sent to its destination more cheaply, through the operation of proposed exemption, by being landed at an United States port before reaching the Canal, and then sent on as coastwise trade, shippers would benefit by adopting this course in preference to sending the goods direct to their destination through the Canal on board the foreign ship.

This objection must be read in connection with the views expressed by the British Government while this Act was pending in Congress, which were stated in the note of July 8, 1912, on the subject from Mr. Innes as follows:

As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so regulated as to make it certain that only bona-fide coastwise traffic which is reserved for United States vessels would be benefited by this exemption, it may be that no objection could be taken.

This statement may fairly be taken as an admission that this government may exempt its vessels engaged in the coastwise trade from the payment of tolls, provided such exemption be restricted to bona fide coastwise traffic. As to this it is sufficient to say that obviously the United States is not to be denied the power to remit tolls to its own coastwise trade because of a suspicion or possibility that the regulations yet to be framed may not restrict this exemption to bona fide coastwise traffic.

The answer to this objection, therefore, apart from any question of treaty interpretation, is that it rests on conjecture as to what may happen rather than upon proved facts, and does not present a question requiring submission to arbitration as it has not as yet passed beyond the stage where it can be profitably dealt with by diplomatic discussion. It will be remembered that only questions which it may not be possible to settle by diplomacy are required by our arbitration treaty to be referred to arbitration.

On this same point Sir Edward Grey urges another objection to the exemption of coastwise vessels as follows:

Again, although certain privileges are granted to vessels engaged in an exclusively coastwise trade, His Majesty's Government are given to understand that there is nothing in the laws of the United States which prevents any United States ship from combining foreign commerce with coastwise trade, and consequently from entering into direct competition with foreign vessels while remaining "prima facie" entitled to the privilege of free passage through the Canal. Moreover any restriction which may be deemed to be now applicable might at any time be removed by legislation or even perhaps by mere changes in the regulations.

This objection also raises a question which, apart from treaty interpretation, depends upon future conditions and facts not yet ascertained, and for the same reasons as are above stated its submission to arbitration at this time would be premature.

The second point of Sir Edward Grey's objection to the exemption of vessels engaged in coastwise trade remains to be considered. On this point he says that the provisions of the Act "*would enable* tolls to be fixed which would not be just and equitable, and would therefore not comply with rule 1 of article 3 of the Hay-Pauncefote Treaty."

It will be observed that this statement evidently was framed without knowledge of the fact that the President's proclamation fixing the tolls had issued. It is not claimed in the note that the tolls actually fixed are not "just and equitable" or even that all vessels passing through the canal were not taken into account in fixing the amount of the tolls, but only that either or both contingencies are possible.

If the British contention is correct that the true construction of the treaty requires all traffic to be reckoned in fixing just and equitable tolls, it requires at least an allegation that the tolls as fixed are not just and equitable and that all traffic has not been reckoned in fixing them before the United States can be called upon to prove that this course was not followed, even assuming that the burden of proof would rest

with the United States in any event, which is open to question. This government welcomes the opportunity, however, of informing the British Government that the tolls fixed in the President's proclamation are based upon the computations set forth in the report of Professor Emory R. Johnson, a copy of which is forwarded herewith for delivery to Sir Edward Grey, and that the tolls which would be paid by American coastwise vessels, but for the exemption contained in the Act, were computed in determining the rate fixed by the President.

By reference to page 208 of Professor Johnson's report, it will be seen that the estimated net tonnage of shipping using the canal in 1915 is as follows:

Coast to coast American shipping.	1,000,000 tons
American shipping carrying foreign commerce of the United States. .	720,000 tons
Foreign shipping carrying commerce of the United States and foreign countries.	8,780,000 tons

It was on this estimate that tolls fixed in the President's proclamation were based.

Sir Edward Grey says, "This rule [1 of Article 3 of the Hay-Pauncefote Treaty] also provides that the tolls should be 'just and equitable.'" The purpose of these words, he adds, "was to limit the tolls to the amount representing the fair value of the services rendered, i. e., to the interest on the capital expended and the cost of the operation and maintenance of the Canal." If, as a matter of fact, the tolls now fixed (of which he seems unaware) do not exceed this requirement, and as heretofore pointed out there is no claim that they do, it is not apparent under Sir Edward Grey's contention how Great Britain could be receiving unjust and inequitable treatment if the United States favors its coastwise vessels by not collecting their share of the tolls necessary to meet the requirement. There is a very clear distinction between an omission to "take into account" the coastwise tolls in order to determine a just and equitable rate, which is as far as this objection goes, and the remission of such tolls, or their collection coupled with their repayment in the form of a subsidy.

The exemption of the coastwise trade from tolls, or the refunding of tolls collected from the coastwise trade, is merely a subsidy granted by the United States to that trade, and the loss resulting from not collecting, or from refunding those tolls, will fall solely upon the United States. In the same way the loss will fall on the United States if the

tolls fixed by the President's proclamation on all vessels represent less than the fair value of the service rendered, which must necessarily be the case for many years; and the United States will, therefore, be in the position of subsidizing or aiding not merely its own coastwise vessels, but foreign vessels as well.

Apart from the particular objections above considered, it is not understood that Sir Edward Grey questions the right of the United States to subsidize either its coastwise or its foreign shipping, inasmuch as he says that His Majesty's Government do not find "either in the letter or in the spirit of the Hay-Pauncefote Treaty any surrender by either of the contracting Powers of the right to encourage its shipping or its commerce by such subsidies as it may deem expedient."

To summarize the whole matter: The British objections are, in the first place, about the Canal Act only; but the Canal Act does not fix the tolls. They ignore the President's proclamation fixing the tolls which puts at rest practically all of the supposititious injustice and inequality which Sir Edward Grey thinks might follow the administration of the Act, and concerning which he expresses so many and grave fears. Moreover, the gravamen of the complaint is not that the Canal Act will actually injure in its operation British shipping or destroy rights claimed for such shipping under the Hay-Pauncefote Treaty, but that such injury or destruction may possibly be the effect thereof; and further, and more particularly, Sir Edward Grey complains that the action of Congress in enacting the legislation under discussion foreshadows that Congress or the President may hereafter take some action which might be injurious to British shipping and destructive of its rights under the treaty. Concerning this possible future injury, it is only necessary to say that in the absence of an allegation of actual or certainly impending injury, there appears nothing upon which to base a sound complaint. Concerning the infringement of rights claimed by Great Britain, it may be remarked that it would, of course, be idle to contend that Congress has not the power, or that the President properly authorized by Congress, may not have the power to violate the terms of the Hay-Pauncefote Treaty, in its aspect as a rule of municipal law. Obviously, however, the fact that Congress has the power to do something contrary to the welfare of British shipping or that Congress has put or may put into the hands of the President the power to do something which may be contrary to the interests possessed by British shipping affords no just ground for complaint. It is the improper exer-

cise of a power and not its possession which alone can give rise to an international cause of action; or to put it in terms of municipal law, it is not the possession of the power to trespass upon another's property which gives a right of action in trespass, but only the actual exercise of that power in committing the act of trespass itself.

When, and if, complaint is made by Great Britain that the effect of the Act and the proclamation together will be to subject British vessels as a matter of fact to inequality of treatment, or to unjust and inequitable tolls in conflict with the terms of the Hay-Pauncefote Treaty, the question will then be raised as to whether the United States is bound by that treaty both to take into account and to collect tolls from American vessels, and also whether under the obligations of that treaty British vessels are entitled to equality of treatment in all respects with the vessels of the United States. Until these objections rest upon something more substantial than mere possibility, it is not believed that they should be submitted to arbitration. The existence of an arbitration treaty does not create a right of action; it merely provides a means of settlement to be resorted to only when other resources of diplomacy have failed. It is not now deemed necessary, therefore, to enter upon a discussion of the views entertained by Congress and by the President as to the meaning of the Hay-Pauncefote Treaty in relation to questions of fact which have not yet arisen, but may possibly arise in the future in connection with the administration of the Act under consideration.

It is recognized by this government that the situation developed by the present discussion may require an examination by Great Britain into the facts above set forth as to the basis upon which the tolls fixed by the President's proclamation have been computed, and also into the regulations and restrictions circumscribing the coastwise trade of the United States, as well as into other facts bearing upon the situation, with the view of determining whether or not as a matter of fact, under present conditions there is any ground for claiming that the Act and proclamation actually subject British vessels to inequality of treatment, or to unjust and inequitable tolls.

If it should be found as a result of such an examination on the part of Great Britain that a difference of opinion exists between the two governments on any of the important questions of fact involved in this discussion, then a situation will have arisen, which, in the opinion of this government, could with advantage be dealt with by referring the controversy to a commission of inquiry for examination and report,

in the manner provided for in the unratified arbitration treaty of August 3, 1911, between the United States and Great Britain.

The necessity for inquiring into questions of fact in their relation to controversies under diplomatic discussion was contemplated by both parties in negotiating that treaty, which provides for the institution, as occasion arises, of a joint high commission of inquiry, to which, upon the request of either party, might be referred for impartial and conscientious investigation any controversy between them, the commission being authorized upon such reference "to examine into and report upon the particular questions or matters referred to it, for the purpose of facilitating the solution of disputes by elucidating the facts, and to define the issues presented by such questions, and also to include in its report such recommendations and conclusions as may be appropriate."

This proposal might be carried out, should occasion arise for adopting it, either under a special agreement, or under the unratified arbitration treaty above mentioned, if Great Britain is prepared to join in ratifying that treaty, which the United States is prepared to do.

You will take an early opportunity to read this despatch to Sir Edward Grey; and if he should so desire, you will leave a copy of it with him.

I am, Sir,

Your obedient servant,

P. C. KNOX.

PROTOCOL BETWEEN FRANCE AND VENEZUELA FOR THE RESUMPTION OF
DIPLOMATIC RELATIONS ¹

*Signed at Caracas, February 11, 1913; ratifications exchanged June 13,
1913*

The Government of the French Republic and the Government of the United States of Venezuela, desiring to resume friendly relations with each other and finding that all cause of rupture has disappeared, have named as their respective plenipotentiaries, to wit: the President of the

¹ Translated from *Journal Officiel* (France), June 17, 1913, p. 5198.

French Republic, Mr. Levesque-d'Avril (Louis-Jean-Clément), Minister Plenipotentiary, officer of the national order of the Legion of Honor; and the President of the United States of Venezuela, Mr. José Ladislao Andara, Minister of Foreign Affairs, who, having after presented to each other their respective powers, in due and proper form, have agreed upon the following articles:

I

Diplomatic relations between Venezuela and France shall be resumed upon the signing of the present protocol, and the two governments shall appoint ministers to Paris and Caracas respectively.

II

Within six months after the exchange of ratifications of the present protocol the French Government shall submit to the Venezuelan Government a list of French claims against Venezuela arising from acts committed after June 30, 1903.

Such claims as may not be settled by direct negotiation between the Venezuelan Government, on the one hand, and the French Government or the interested parties, on the other, within six months from the receipt of the said list shall be carried before the competent court of Venezuela, upon the suit of the claimants, within a maximum period of three months.

With a view to avoiding all further disputes, the high contracting parties agree that the French Government shall have the right, after having first notified the Venezuelan Government of its reasons for so doing, to submit to the arbitral commission provided for in Articles III and IV claims that have been passed upon by a Venezuelan court, against whose decision the French Government may consider that it has grounds for raising objections either in law or in equity.

III

In cases where, in default of a direct understanding, no final judgment or decision has been rendered within fifteen months from the institution of legal action, and if this delay is not imputable to the claimant alone, the arbitral commission shall be competent to take cognizance of such claims as may not have been passed upon within the said period.

IV

Within the three months following the expiration of all the periods provided for in the preceding articles, the two governments shall each appoint an arbitrator, if the necessity arises, and the two arbitrators thus appointed shall choose an umpire by common consent.

In case of disagreement, the appointment of the umpire shall be made by a third Power designated by the two governments by common consent.

If they cannot come to an agreement upon this point, each of the two governments shall designate a different Power, and the umpire shall be selected jointly by the two Powers thus designated.

The French arbitrator and the Venezuelan arbitrator shall meet at Caracas immediately after their appointment and shall examine the claims provided for in Articles II and III.

Such of the claims as the two arbitrators may find it impossible to settle amicably within twelve months from the date of their first meeting, shall be submitted by them to the umpire, from whose decision there shall be no appeal.

V

The time within which the documents and proofs in support of them must be presented shall be fixed by the arbitrators, who shall also pass upon all other questions of procedure.

VI

Each of the governments shall pay the honorarium and expenses of its arbitrator, half of the honorarium of the umpire, and the customary general expenses of the arbitral proceedings.

VII

The indemnities which may be awarded to the claimants shall be paid to the French Government in French gold or its equivalent in Venezuelan money, in every case within one year at most from the date of the last arrangements, award or decision.

VIII

The Venezuelan Government confirms its former engagements concerning the handling of the French diplomatic debt. It likewise confirms the declaration appended to the protocol of February 19, 1902.

IX

The present arrangement shall be ratified by the competent authorities and ratifications shall be exchanged at Caracas as soon as possible, at the latest by June 15, 1913.

X

There shall be two copies of the text of the present arrangement, one French-Spanish and the other Spanish-French. In case of dispute the French text shall be the authority.

In witness whereof the respective plenipotentiaries have signed the present protocol in duplicate, one Spanish-French, the other French-Spanish, and have affixed their seals thereto, at Caracas, February 11, 1913.

(L. S.) (Signed) L. D'AVRIL

(L. S.) (") J.-L. ANDARA.

OFFICIAL DOCUMENTS

AGREEMENT BETWEEN THE UNITED STATES AND FRANCE EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF FEBRUARY 10, 1908 ¹

*Signed at Washington, February 13, 1913; ratifications exchanged,
March 14, 1913*

The Government of the United States of America and the Government of the French Republic, being desirous of extending the period of five years during which the arbitration convention concluded between them on February 10, 1908, is to remain in force, which period is about to expire, have authorized the undersigned, to wit: Philander C. Knox, Secretary of State of the United States, and J. J. Jusserand, Ambassador of the French Republic to the United States, to conclude the following arrangement:

ARTICLE I

The convention of arbitration of February 10, 1908, between the Government of the United States of America and the Government of the French Republic, the duration of which by Article III thereof was fixed at a period of five years from the date of ratification, which period will terminate on February 27, 1913, is hereby extended and continued in force for a further period of five years from February 27, 1913.

ARTICLE II

The present agreement shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the French Republic, in accordance with the constitutional laws of France, and it shall become effective upon the date of the exchange of ratifications, which shall take place at Washington as soon as possible.

Done in duplicate, in the English and French languages, at Washington this 13th day of February, one thousand nine hundred and thirteen.

PHILANDER C. KNOX [SEAL.]

JUSSERAND [SEAL.]

¹ U. S. Treaty Series, No. 577.

ARRANGEMENT EFFECTED BY EXCHANGE OF NOTES BETWEEN UNITED
STATES AND GREAT BRITAIN PROVIDING FOR EXTRADITION BETWEEN
THE PHILIPPINE ISLANDS OR GUAM AND BRITISH NORTH BORNEO ¹

Signed at Washington, September 1-23, 1913

[The British Ambassador to the Secretary of State]

BRITISH EMBASSY,
DUBLIN, N. H.,

No. 231.

Sept. 1, 1913.

SIR,

Under instructions from my government I have the honour to request you to be so good as to inform me whether the United States Government would be willing to enter into an arrangement with the Government of His Britannic Majesty by virtue of which fugitive offenders from the Philippine Islands or Guam to the State of North Borneo, or from the State of North Borneo to the Philippine Islands or Guam shall be reciprocally surrendered for offences specified in the existing treaties of extradition between the United States and His Britannic Majesty, so far as such offences are punishable both by the laws of the Philippine Islands or Guam and by the laws of the State of North Borneo.

Should your government agree to this arrangement I should be glad to receive from you an assurance that this note will be considered by the United States Government as a sufficient confirmation thereof on the part of His Britannic Majesty's Government.

I have the honour to be,

With the highest consideration,

Sir,

Your most obedient,
humble servant,

CECIL SPRING-RICE.

The Honourable,

W. J. BRYAN,
Secretary of State,
etc., etc., etc.,

¹ U. S. Treaty Series, No. 582.

[*The Secretary of State to the British Ambassador*]

DEPARTMENT OF STATE,

WASHINGTON,

No. 139.

September 23, 1913.

EXCELLENCY:

I have the honor to acknowledge the receipt of your note No. 231, of the 1st instant, in which, under instructions from your government, you inquire whether the Government of the United States would be willing to enter into an arrangement with the Government of His Britannic Majesty by virtue of which fugitive offenders from the Philippine Islands or Guam to the State of North Borneo or from the State of North Borneo to the Philippine Islands or Guam shall be reciprocally surrendered for offenses specified in the existing treaties of extradition between the United States and His Britannic Majesty, so far as such offenses are punishable both by the laws of the Philippine Islands or Guam and by the laws of the State of North Borneo; and you ask that, in case the Government of the United States agrees to this arrangement, you receive from me an assurance that your note will be considered by the Government of the United States as a sufficient confirmation thereof on the part of His Britannic Majesty's Government.

In reply I am happy to state that the Government of the United States agrees to the arrangement between the Government of the United States and the Government of His Britannic Majesty by which it is understood that fugitive offenders from the Philippine Islands or Guam to British North Borneo and from British North Borneo to the Philippine Islands or Guam shall be reciprocally delivered up for offenses specified in the extradition treaties between the United States and His Britannic Majesty's Government so far as such offenses are punishable both by the laws of the Philippine Islands or Guam and by the laws of British North Borneo; and accepts Your Excellency's note as a sufficient confirmation of the arrangement on the part of His Britannic Majesty's Government.

Accordingly, the Government of the United States understands the arrangement to be completed by this present note and to be in full force and effect from and after September 23, 1913.

I have the honor to be, with the highest consideration, Your Excellency's obedient servant,

W. J. BRYAN.

His Excellency

SIR CECIL ARTHUR SPRING-RICE,
Ambassador of Great Britain.

CONVENTION ESTABLISHING THE STATUS OF NATURALIZED CITIZENS WHO
AGAIN TAKE UP THEIR RESIDENCE IN THE COUNTRY OF THEIR ORIGIN ¹

*Signed at Rio de Janeiro, August 13, 1906; ratification of the United States
deposited with the Government of Brazil, February 25, 1908; proclaimed
January 28, 1913* ²

Their Excellencies, the Presidents of Ecuador, Paraguay, Bolivia, Colombia, Honduras, Panamá, Cuba, Peru, El Salvador, Costa Rica, the United States of Mexico, Guatemala, Uruguay, the Argentine Republic, Nicaragua, the United States of Brazil, the United States of America, and Chile;

Desiring that their respective countries should be represented at the Third International American Conference, sent, thereto, duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following delegates:

Ecuador—Dr. Emilio Arévalo; Olmedo Alfaro.

Paraguay—Manuel Gondra; Arsenio López Decoud; Gualberto Cardús y Huerta;

Bolivia—Dr. Alberto Gutiérrez; Dr. Carlos V. Romero;

Colombia—Rafael Uribe Uribe; Dr. Guillermo Valencia;

Honduras—Fausto Dávila;

Panamá—Dr. José Domingo de Obaldía;

Cuba—Dr. Gonzalo de Quesada; Rafael Montoro; Dr. Antonio González Lanuza;

Peru—Dr. Eugenio Larrabure y Unánue; Dr. Antonio Miró Quesada; Dr. Mariano Cornejo;

El Salvador—Dr. Francisco A. Reyes;

Costa Rica—Dr. Ascensión Esquivel;

United States of Mexico—Dr. Francisco León de La Barra; Ricardo Molina-Hübbe; Ricardo García Granados;

Guatemala—Dr. Antonio Batres Jáuregui;

Uruguay—Luis Melian Lafinur; Dr. Antonio María Rodríguez; Dr. Gonzalo Ramírez;

¹ U. S. Treaty Series, No. 575.

² Ratified also by Colombia, Chile, Costa Rica, Nicaragua, Guatemala, Brazil, Mexico, Ecuador, Honduras, Panama, Salvador, and Argentine Republic.

Argentine Republic—Dr. J. V. González; Dr. José A. Terry; Dr. Eduardo L. Bidau;

Nicaragua—Luís F. Corea;

United States of Brazil—Dr. Joaquim Aurelio Nabuco de Araujo; Dr. Joaquim Francisco de Assis Brasil; Dr. Gastão da Cunha; Dr. Alfredo de Moraes Gomes Ferreira; Dr. João Pandiá Calogeras; Dr. Amaro Cavalcanti; Dr. Joaquim Xavier da Silveira; Dr. José P. da Graça Aranha; Antonio da Fontoura Xavier;

United States of America—William I. Buchanan; Dr. L. S. Rowe; A. J. Montague; Tulio Larrinaga; Dr. Paul S. Reinsch; Van Leer Polk;

Chili—Dr. Anselmo Hevia Riquelme; Joaquín Walker Martínez; Dr. Luís Antonio Vergara; Dr. Adolfo Guerrerro;

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, have agreed, to celebrate a convention establishing the status of naturalized citizens who again take up their residence in the country of their origin, in the following terms:

Art. 1. If a citizen, a native of any of the countries signing the present convention, and naturalized in another, shall again take up his residence, in his native country without the intention of returning to the country in which he has been naturalized, he will be considered as having reassumed his original citizenship, and as having renounced the citizenship acquired by the said naturalization.

Art. II. The intention not to return will be presumed to exist when the naturalized person shall have resided in his native country for more than two years. But this presumption may be destroyed by evidence to the contrary.

Art. III. This convention will become effective in the countries that ratify it, three months from the dates upon, which said ratifications shall be communicated to the Government of the United States of Brazil; and if it should be denounced by any one of them, it shall continue in effect for one year more, to count from the date of such denouncement.

Art. IV. The denouncement of this convention by any one of the signatory states shall be made to the Government of the United States of Brazil and shall take effect only with regard to the country that may make it.

In testimony whereof the plenipotentiaries and delegates have signed the present convention, and affixed the seal of the Third International American Conference.

Made in the city of Rio de Janeiro the thirteenth of August nineteen hundred and six, in English, Portuguese, and Spanish, and deposited with the Secretary of Foreign Affairs of the United States of Brazil, in order that certified copies thereof be made, and sent through diplomatic channels to the signatory states.

For Ecuador—EMILIO ARÉVALO, OLMEDO ALFARO.

For Paraguay—MANOEL GONDRA, ARSENIO LÓPEZ DECOUD, GUALBERTO CARDÜS Y HUERTA.

For Bolivia—ALBERTO GUTIÉRREZ, CARLOS V. ROMERO.

For Colombia—RAFAEL URIBE URIBE, GUILLERMO VALENCIA.

For Honduras—FAUSTO DÁVILA.

For Panamá—JOSÉ DOMINGO DE OBALDIA.

For Cuba—GONZALO DE QUESADA, RAFAEL MONTORO, ANTONIO GONZÁLEZ LANUZA.

For Peru—EUGENIO LARRABURE Y UNÁNUE, ANTONIO MIRÓ QUESADA, MARIANO CORNEJO.

For El Salvador—FRANCISCO A. REYES.

For Costa Rica—ASCENCIÓN ESQUIVEL.

For the United States of Mexico—FRANCISCO LEÓN DE LA BARRA, RICARDO MOLINA-HÜBBE, RICARDO GARCÍA GRANADOS.

For Guatemala—ANTONIO BATRES JÁUREGUI.

For Uruguay—LUÍS MELIAN LAFINUR, ANTONIO MARÍA RODRÍGUEZ, GONZALO RAMÍREZ.

For the Argentine Republic—J. V. GONZÁLEZ, JOSÉ A. TERRY, EDUARDO L. BIDAÚ.

For Nicaragua—LUÍS F. COREA.

For the United States of Brazil—JOAQUIM AURELIO NABUCO DE ARAUJO, JOAQUIM FRANCISCO DE ASSIS BRASIL, GASTÃO DA CUNHA, ALFREDO DE MORAES GOMES FERREIRA, JOÃO PANDIÁ CALOGERAS, AMARO CAVALCANTI, JOAQUIM XAVIER DA SILVEIRA, JOSÉ P. DA GRÁÇA ARANHA, ANTONIO DA FONTOURA XAVIER.

For the United States of America—WILLIAM I. BUCHANAN, L. S. ROWE, A. J. MONTAGUE, TULIO LARRINAGA, PAUL S. REINSCH, VAN LEER POLK.

For Chili—ANSELMO HEVIA RIQUELME, JOAQUIN WALKER MARTÍNEZ, LUÍS ANTONIO VERGARA, ADOLFO GUERRERO.

I hereby certify that the above and foregoing is a true copy of a convention adopted by the Third International Conference of the

American States held at Rio de Janeiro, Brazil, July 23rd to August 27th, 1906.

Done at Washington, D. C., February 7, A. D. 1907.

JOAQUIM NABUÇO

*President of the Third International
Conference of the American States.*

INTERNATIONAL RADIOTELEGRAPH CONVENTION CONCLUDED BETWEEN GERMANY AND THE GERMAN PROTECTORATES, THE UNITED STATES OF AMERICA AND THE POSSESSIONS OF THE UNITED STATES OF AMERICA, THE ARGENTINE REPUBLIC, AUSTRIA, HUNGARY, BOSNIA-HERZEGOVINA, BELGIUM, THE BELGIAN CONGO, BRAZIL, BULGARIA, CHILE, DENMARK, EGYPT, SPAIN AND THE SPANISH COLONIES, FRANCE AND ALGERIA, FRENCH WEST AFRICA, FRENCH EQUATORIAL AFRICA, INDO-CHINA, MADAGASCAR, TUNIS, GREAT BRITAIN AND THE VARIOUS BRITISH COLONIES AND PROTECTORATES, THE UNION OF SOUTH AFRICA, THE AUSTRALIAN FEDERATION, CANADA, BRITISH INDIA, NEW ZEALAND, GREECE, ITALY AND THE ITALIAN COLONIES, JAPAN AND CHOSEN, FORMOSA, JAPANESE SAKHALIN AND THE LEASED TERRITORY OF KWANTUNG, MOROCCO, MONACO, NORWAY, THE NETHERLANDS, THE DUTCH INDIES AND THE COLONY OF CURACAO, PERSIA, PORTUGAL AND THE PORTUGUESE COLONIES, ROUMANIA, RUSSIA AND THE RUSSIAN POSSESSIONS AND PROTECTORATES, THE REPUBLIC OF SAN MARINO, SIAM, SWEDEN, TURKEY, AND URUGUAY ¹

[Translation]

Signed at London, July 5, 1912; ratification of the United States deposited with the Government of Great Britain, February 20, 1913

The undersigned, plenipotentiaries of the governments of the countries enumerated above, having met in conference at London, have agreed on the following convention, subject to ratification:

ARTICLE 1

The high contracting parties bind themselves to apply the provisions of the present convention to all radio stations (both coastal sta-

¹ U. S. Treaty Series, No. 581.

tions and stations on shipboard) which are established or worked by the contracting parties and open to public service between the coast and vessels at sea.

They further bind themselves to make the observance of these provisions obligatory upon private enterprises authorized either to establish or work coastal stations for radiotelegraphy open to public service between the coast and vessels at sea, or to establish or work radio stations, whether open to general public service or not, on board of vessels flying their flag.

ARTICLE 2

By "coastal stations" is to be understood every radio station established on shore or on board a permanently moored vessel used for the exchange of correspondence with ships at sea.

Every radio station established on board any vessel not permanently moored is called a "station on shipboard."

ARTICLE 3

The coastal stations and the stations on shipboard shall be bound to exchange radiograms without distinction of the radio system adopted by such stations.

Every station on shipboard shall be bound to exchange radiograms with every other station on shipboard without distinction of the radio system adopted by such stations.

However, in order not to impede scientific progress, the provisions of the present article shall not prevent the eventual employment of a radio system incapable of communicating with other systems, provided that such incapacity shall be due to the specific nature of such system and that it shall not be the result of devices adopted for the sole purpose of preventing intercommunication.

ARTICLE 4

Notwithstanding the provisions of Article 3, a station may be reserved for a limited public service determined by the object of the correspondence or by other circumstances independent of the system employed.

ARTICLE 5

Each of the high contracting parties undertakes to connect the coastal stations to the telegraph system by special wires, or, at least, to take

other measures which will insure a rapid exchange between the coastal stations and the telegraph system.

ARTICLE 6

The high contracting parties shall notify one another of the names of coastal stations and stations on shipboard referred to in Article 1, and also of all data, necessary to facilitate and accelerate the exchange of radiograms, as specified in the regulations.

ARTICLE 7

Each of the high contracting parties reserves the right to prescribe or permit at the stations referred to in Article 1, apart from the installation the data of which are to be published in conformity with Article 6, the installation and working of other devices for the purpose of establishing special radio communication without publishing the details of such devices.

ARTICLE 8

The working of the radio stations shall be organized as far as possible in such manner as not to disturb the service of other radio stations.

ARTICLE 9

Radio stations are bound to give absolutely priority to calls of distress from whatever source, to similarly answer such calls and to take such action with regard thereto as may be required.

ARTICLE 10

The charge for a radiogram shall comprise, according to the circumstances:

1. (a) The coastal rate, which shall fall to the coastal station.
- (b) The shipboard rate, which shall fall to the shipboard station.
2. The charge for transmission over the telegraph lines, to be computed according to the ordinary rules.
3. The charges for transit through the intermediate coastal or shipboard stations and the charges for special services requested by the sender.

The coastal rate shall be subject to the approval of the government

of which the coastal station is dependent, and the shipboard rate to the approval of the government of which the ship is dependent.

ARTICLE 11

The provisions of the present convention are supplemented by regulations, which shall have the same force and go into effect at the same time as the convention.

The provisions of the present convention and of the regulations relating thereto may at any time be modified by the high contracting parties by common consent. Conferences of plenipotentiaries having power to modify the convention and the regulations, shall take place from time to time; each conference shall fix the time and place of the next meeting.

ARTICLE 12

Such conferences shall be composed of delegates of the governments of the contracting countries.

In the deliberations each country shall have but one vote.

If a government adheres to the convention for its colonies, possessions or protectorates, subsequent conferences may decide that such colonies, possessions or protectorates, or a part thereof, shall be considered as forming a country as regards the application of the preceding paragraph. But the number of votes at the disposal of one government, including its colonies, possessions or protectorates, shall in no case exceed six.

The following shall be considered as forming a single country for the application of the present article:

German East Africa

German Southwest Africa

Kamerun

Togo Land

German Protectorates in the Pacific

Alaska

Hawaii and the other American possessions in Polynesia

The Philippine Islands

Porto Rico and the American possessions in the Antilles

The Panama Canal Zone

The Belgian Congo

The Spanish Colony of the Gulf of Guinea

French East Africa

French Equatorial Africa
Indo-China
Madagascar
Tunis
The Union of South Africa
The Australian Federation
Canada
British India
New Zealand
Eritrea
Italian Somaliland
Chosen, Formosa, Japanese Sakhalin and the leased territory of
Kwantung.
The Dutch Indies
The Colony of Curacao
Portuguese West Africa
Portuguese East Africa and the Portuguese possessions in Asia
Russian Central Asia (littoral of the Caspian Sea)
Bokhara
Khiva
Western Siberia (littoral of the Arctic Ocean)
Eastern Siberia (littoral of the Pacific Ocean).

ARTICLE 13

The International Bureau of the Telegraph Union shall be charged with collecting, coördinating and publishing information of every kind relating to radiotelegraphy, examining the applications for changes in the convention or regulations, promulgating the amendments adopted, and generally performing all administrative work referred to it in the interest of international radiotelegraphy.

The expense of such institution shall be borne by all the contracting countries.

ARTICLE 14

Each of the high contracting parties reserves to itself the right of fixing the terms on which it will receive radiograms proceeding from or intended for any station, whether on shipboard or coastal, which is not subject to the provisions of the present convention.

If a radiogram is received the ordinary rates shall be applicable to it.

Any radiogram proceeding from a station on shipboard and received by a coastal station of a contracting country, or accepted in transit by the administration of a contracting country, shall be forwarded.

Any radiogram intended for a vessel shall also be forwarded if the administration of the contracting country has accepted it originally or in transit from a non-contracting country, the coastal station reserving the right to refuse transmission to a station on shipboard subject to a non-contracting country.

ARTICLE 15

The provisions of Articles 8 and 9 of this convention are also applicable to radio installation other than those referred to in Article 1.

ARTICLE 16

Governments which are not parties to the present convention shall be permitted to adhere to it upon their request. Such adherence shall be communicated through diplomatic channels to the contracting government in whose territory the last conference shall have been held, and by the latter to the remaining governments.

The adherence shall carry with it to the fullest extent acceptance of all the clauses of this convention and admission to all the advantages stipulated therein.

The adherence to the convention by the government of a country having colonies, possessions or protectorates shall not carry with it the adherence of its colonies, possessions or protectorates unless a declaration to that effect is made by such government. Such colonies, possessions and protectorates, as a whole or each of them, separately, may form the subject of a separate adherence or a separate denunciation within the provisions of the present article and of Article 22.

ARTICLE 17

The provisions of Articles 1, 2, 3, 5, 6, 7, 8, 11, 12 and 17 of the International Telegraph Convention of St. Petersburg of July 10-22, 1875, shall be applicable to international radiotelegraphy.²

ARTICLE 18

In case of disagreement between two or more contracting governments regarding the interpretation or execution of the present convention or

² The articles mentioned are printed in this SUPPLEMENT, p. 276.

of the regulations referred to in Article 11, the question in dispute may, by mutual agreement, be submitted to arbitration. In such case each of the governments concerned shall choose another government not interested in the question at issue.

The decision of the arbiters shall be arrived at by the absolute majority of votes.

In case of a division of votes, the arbiters shall choose, for the purpose of settling the disagreement, another contracting government, which is likewise a stranger to the question at issue. In case of failure to agree on a choice, each arbiter shall propose a disinterested contracting government and lots shall be drawn between the governments proposed. The drawing of the lots shall fall to the government within whose territory the international bureau provided for in Article 13 shall be located.

ARTICLE 19

The high contracting parties bind themselves to take, or propose to their respective legislatures, the necessary measures for insuring the execution of the present convention.

ARTICLE 20

The high contracting parties shall communicate to one another any laws already framed, or which may be framed, in their respective countries relative to the object of the present convention.

ARTICLE 21

The high contracting parties shall preserve their entire liberty as regards radio installations other than provided for in Article 1, especially naval and military installations, and stations used for communications between fixed points. All such installations and stations shall be subject only to the obligations provided for in Articles 8 and 9 of the present convention.

However, when such installations and stations are used for public maritime service they shall conform, in the execution of such service, to the provisions of the regulations as regards the mode of transmission and rates.

On the other hand, if coastal stations are used for general public service with ships at sea and also for communication between fixed

points, such stations shall not be subject, in the execution of the last named service, to the provisions of the convention except for the observance of Articles 8 and 9 of this convention.

Nevertheless, fixed stations used for correspondence between land and land shall not refuse the exchange of radiograms with another fixed station on account of the system adopted by such station; the liberty of each country shall, however, be complete as regards the organization of the service for correspondence between fixed points and the nature of the correspondence to be effected by the stations reserved for such service.

ARTICLE 22

The present convention shall go into effect on the 1st day of July, 1913, and shall remain in force for an indefinite period or until the expiration of one year from the day when it shall be denounced by any of the contracting parties.

Such denunciation shall affect only the government in whose name it shall have been made. As regards the other contracting Powers, the convention shall remain in force.

ARTICLE 23

The present convention shall be ratified and the ratifications exchanged at London with the least possible delay.

In case one or several of the high contracting parties shall not ratify the convention, it shall nevertheless be valid as to the parties which shall have ratified it.

In witness whereof the respective plenipotentiaries have signed one copy of the convention, which shall be deposited in the archives of the British Government, and a copy of which shall be transmitted to each party.

Done at London, July 5, 1912.

For Germany and the German Protectorates:

B. KOEHLER
O. WACHENFELD
Dr. KARL STRECKER
SCHRADER
GOETSCH
Dr. EMIL KRAUSS
FIELITZ.

For the United States and the possessions of the United States:

JOHN R. EDWARDS
JNO. Q. WALTON
WILLIS L. MOORE
LOUIS W. AUSTIN
GEORGE OWEN SQUIER
EDGAR RUSSEL
C. MCK. SALTZMAN
DAVID WOOSTER TODD
JOHN HAYS HAMMOND, Jr.
WEBSTER
W. D. TERRELL
JOHN I. WATERBURY.

For Argentine Republic:

VICENTE J. DOMINGUEZ.

For Austria:

Dr. FRITZ RITTER WAGNER VON JAUREGG
Dr. RUDOLPH RITTER SPEIL V. OSTHEIM.

For Hungary:

CHARLES FOLLERT
Dr. DE HENNYEY.

For Bosnia-Herzegovina:

H. GOINGER, G. M
ADOLF DANINGER
A. CICOLI
ROMEO VIO.

For Belgium:

J. BANNEUX
DELDIME.

For Belgian Congo:

ROBERT B. GOLDSCHMIDT.

For Brazil:

Dr. FRANCISCO BHERING.

For Bulgaria:

IV. STOYANOVITCH.

For Chile:

C. E. RICKARD.

For Denmark:

N. MEYER
J. A. VÖHTZ
R. N. A. FABER
T. F. KRARUP.

For Egypt:

J. S. LIDDELL.

For Spain and the Spanish Colonies:

JACOBO GARCIA ROURE
JUAN DE CARRANZA Y GARRIDO
JACINTO LABRADOR
ANTONIO NIETO
TOMÁS FERNANDEZ QUINTANA
JAIME JANER ROBINSON.

For France and Algeria:

A. FROUIN.

For French West Africa:

A. DUCHÊNE.

For French Equatorial Africa:

A. DUCHÊNE.

For Indo-China:

A. DUCHÊNE.

For Madagascar:

A. DUCHÊNE.

For Tunis:

ET. DE FELCOURT.

For Great Britain and the various British Colonies and Protectorates:

H. BABINGTON SMITH
E. W. FARNALL
E. CHARLTON
G. M. W. MACDONOGH.

For Union of South Africa:

RICHARD SOLOMON.

For Australian Federation:

CHARLES BRIGHT.

For Canada:

G. J. DESBARATS.

- For British India:
H. A. KIRK
F. E. DEMPSTER.
- For New Zealand:
C. WRAY PALLISER.
- For Greece:
C. DOSIOS.
- For Italy and the Italian Colonies:
Prof. A. BATTELLI.
- For Japan and for Chosen, Formosa, Japanese Sakhalin, and the
leased territory of Kwantung:
TETSUJIRO SAKANO
KENJI IDE
RIUJI NAKAYAMA
SEIICHI KUROSE.
- For Morocco:
MOHAMMED EL KABADJ
U. ASENSIO.
- For Monaco:
FR. ROUSSEL.
- For Norway:
HEFTYE
K. A. KNUDSSÖN.
- For Netherlands:
G. J. C. A. POP
J. P. GUÉPIN.
- For Dutch Indies and the Colony of Curacao:
PERK
F. VAN DER GOOT.
- For Persia:
MIRZA ABDUL GHAFAR KHAN.
- For Portugal and the Portuguese Colonies:
ANTONIO MARIA DA SILVA.
- For Roumania:
C. BOERESCU.
- For Russia and the Russian possessions and Protectorates:
N. DE ETTER
P. OSSADTCHY
A. EULER

SERGUEIEVITCH
V. DMITRIEFF
D. SOKOLTSOW
A. STCHASTNYI
BARON A. WYNEKEN.

For Republic of San Marino:

ARTURO SERENA.

For Siam:

LUANG SANPAKITCH PREECHA
WM. J. ARCHER.

For Sweden:

RYDIN
HAMILTON.

For Turkey:

M. EMIN
M. FAHRY
OSMAN SADI.

For Uruguay:

FED. R. VIDIELLA.

FINAL PROTOCOL

[Translation]

At the moment of signing the convention adopted by the International Radiotelegraph Conference of London, the undersigned plenipotentiaries have agreed as follows:

I

The exact nature of the adherence notified on the part of Bosnia-Herzegovina not yet being determined, it is recognized that one vote shall be assigned to Bosnia-Herzegovina but that a decision will be necessary at a later date as to whether this vote belongs to Bosnia-Herzegovina in virtue of the second paragraph of Article 12 of the convention, or whether this vote is accorded to it in conformity with the provisions of the third paragraph of that article.

II

Note is taken of the following declaration:

The Delegation of the United States declares that its government

is under the necessity of abstaining from all action with regard to rates, because the transmission of radiograms as well as of ordinary telegrams in the United States is carried on, wholly or in part, by commercial or private companies.

III

Note is likewise taken of the following declaration:

The Government of Canada reserves the right to fix separately, for each of its coastal stations, a total maritime rate for radiograms proceeding from North America and destined for any ship whatever, the coastal rate amounting to three-fifths and the shipboard rate to two-fifths of the total rate.

In witness whereof the respective plenipotentiaries have drawn up the present final protocol, which shall be of the same force and effect as though the provisions thereof had been embodied in the text of the convention itself to which it has reference, and they have signed one copy of the same, which shall be deposited in the archives of the British Government, and a copy of which shall be transmitted to each of the parties.

Done at London, July 5, 1912.

For Germany and the German Protectorates:

B. KOEHLER
O. WACHENFELD
Dr. KARL STRECKER
SCHRADER
GOETSCH
Dr. EMIL KRAUSS
FIELITZ.

For the United States and the possessions of the United States:

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- For Australian Federation:
CHARLES BRIGHT.
- For Canada:
G. J. DESBARATS.
- For British India:
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- For New Zealand:
C. WRAY PALLISER.
- For Greece:
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- For Italy and the Italian Colonies:
Prof. A. BATTELLI.
- For Japan and for Chosen, Formosa, Japanese Sakhalin, and the
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TETSUJIRO SAKANO
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For Netherlands:	G. J. C. A. POP J. P. GUÉPIN.
For Dutch Indies and the Colony of Curacao:	PERK F. VAN DER GOOT.
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For Republic of San Marino:	ARTURO SERENA.
For Siam:	LUANG SANPAKITCH PREECHA WM. J. ARCHER.
For Sweden:	RYDIN HAMILTON.

For Turkey:

M. EMIN
M. FAHRY
OSMAN SADI.

For Uruguay:

FED. R. VIDIELLA.

SERVICE REGULATIONS AFFIXED TO THE INTERNATIONAL RADIOTELEGRAPH
CONVENTION, LONDON, 1912

[Translation]

1. Organization of Radio Stations

ARTICLE I

The choice of radio apparatus and devices to be used by the coastal stations and stations on shipboard shall be unrestricted. The installation of such stations shall as far as possible keep pace with scientific and technical progress.

ARTICLE II

Two wave lengths, one of 600 meters and the other of 300 meters, are authorized for general public service. Every coastal station opened to such service shall be equipped in such manner as to be able to use these two wave lengths, one of which shall be designated as the normal wave length of the station. During the whole time that a coastal station is open it shall be in condition to receive calls according to its normal wave length. For the correspondence specified under paragraph 2 of Article XXXV, however, a wave length of 1,800 meters shall be used. In addition, each government may authorize in coastal stations the employment of other wave lengths designed to insure long-range service or any service other than for general public correspondence established in conformity with the provisions of the convention under the reservation that such wave lengths do not exceed 600 meters or that they do exceed 1,600 meters.

In particular, stations used exclusively for sending signals designed to determine the position of ships shall not employ wave lengths exceeding 150 meters.

ARTICLE III

1. Every station on shipboard shall be equipped in such manner as to be able to use wave lengths of 600 meters and of 300 meters. The first shall be the normal wave length and may not be exceeded for transmission except in the case referred to under Article XXXV (paragraph 2).

Other wave lengths, less than 600 meters, may be used in special cases and under the approval of the managements to which the coastal and shipboard stations concerned are subject.

2. During the whole time that a station on shipboard is open it shall be able to receive calls according to its normal wave length.

3. Vessels of small tonnage which are unable to use a wave length of 600 meters for transmission, may be authorized to employ exclusively the wave length of 300; they must be able to receive a wave length of 600 meters.

ARTICLE IV

Communication between a coastal station and a station on shipboard shall be exchanged on the part of both by means of the same wave length. If, in a particular case, communication is difficult, the two stations may, by mutual consent, pass from the wave length with which they are communicating to the other regulation wave length. Both stations shall resume their normal wave length when the exchange of radiograms is finished.

ARTICLE V

1. The International Bureau shall draw up, publish, and revise from time to time an official chart showing the coastal stations, their normal ranges, the principal lines of navigation, and the time normally taken by ships for the voyage between the different ports of call.

2. It shall draw up and publish a list of radio stations of the class referred to in Article I of the convention, and from time to time supplements covering additions and modifications. Such list shall contain for each station the following data:

(1) In the case of coastal stations; name, nationality and geographical location indicated by the territorial subdivision and the latitude and longitude of the place; in the case of stations on shipboard; name and nationality of the ship; when the case arises, the name and address of the party working the station;

(2) The call letters (the calls shall be distinguishable from one another and each must be formed of a group of three letters);

- (3) The normal range;
- (4) The radio system with the characteristics of the transmitting system (musical sparks, tonality expressed by the number of double vibrations, etc.);
- (5) The wave lengths used (the normal wave length to be underscored);
- (6) The nature of the services carried on;
- (7) The hours during which the station is open;
- (8) When the case arises, the hour and method of transmitting time signals and meteorological telegrams;
- (9) The coastal rate or shipboard rate.

3. The list shall also contain such data relating to radio stations other than those specified in Article I of the convention as may be communicated to the International Bureau by the management of the Radio Service ("administration") to which such stations are subject, provided that such managements are either adherents to the convention or, if not adherents, have made the declaration referred to in Article XLVIII.

4. The following notations shall be adopted in documents for use by the International Service to designate radio stations:

PG Station open to general public correspondence.

PR Station open to limited public correspondence.

P Station of private interest.

O Station open exclusively to official correspondence.

N Station having continuous service.

X Station having no fixed working hours.

5. The name of a station on shipboard appearing in the first column of the list shall be followed, in case there are two or more vessels of the same name, by the call letters of such station.

ARTICLE VI

The exchange of superfluous signals and words is prohibited to stations of the class referred to in Article I of the convention. Experiments and practice will be permitted in such stations in so far as they do not interfere with the service of other stations.

Practice shall be carried on with wave lengths different from those authorized for public correspondence, and with the minimum of power necessary.

ARTICLE VII

1. All stations are bound to carry on the service with the minimum of energy necessary to insure safe communication.

2. Every coastal or shipboard station shall comply with the following requirements:

(a) The waves sent out shall be as pure and as little damped as possible;

In particular, the use of transmitting devices in which the waves sent out are obtained by means of sparks directly in the aerial (plain aerial) shall not be authorized except in cases of distress.

It may, however, be permitted in the case of certain special stations (those of small vessels for example) in which the primary power does not exceed 50 watts.

(b) The apparatus shall be able to transmit and receive at a speed equal to at least 20 words a minute, words to be counted at the rate of 5 letters each.

New installations using more than 50 watts shall be equipped in such a way as to make it possible to obtain with ease several ranges less than the normal range, the shortest being approximately 15 nautical miles. Existing installations using more than 50 watts shall be remodeled, wherever possible, so as to comply with the foregoing provisions.

(c) Receiving apparatus shall be able to receive, with the greatest possible protection against interference, transmissions of the wave lengths specified in the present regulations, up to 600 meters.

3. Stations serving solely for determining the position of ships (radio-phares) shall not operate over a radius greater than 30 nautical miles.

ARTICLE VIII

Independently of the general requirements specified under Article VII, stations on shipboard shall likewise comply with the following requirements:

(a) The power transmitted to the radio apparatus, measured at the terminals of the generator of the station, shall not, under normal conditions, exceed one kilowatt.

(b) Subject to the provisions of Article XXXV, paragraph 2, power exceeding one kilowatt may be employed when the vessel finds it necessary to correspond while more than 200 nautical miles distant from the

nearest coastal station, or when, owing to unusual circumstances, communication can be established only by means of an increase of power.

ARTICLE IX

1. No station on shipboard shall be established or worked by private enterprise without a license issued by the government to which the vessel is subject.

Stations on board of ships having their port of registry in a colony, possession, or protectorate may be described as subject to the authority of such colony, possession, or protectorate.

2. Every shipboard station holding a license issued by one of the contracting governments shall be considered by the other governments as having an installation fulfilling the requirements stipulated in the present regulations.

Competent authorities of the countries at which the ship calls may demand the production of the license. In default of such production, these authorities may satisfy themselves as to whether the radio installations of the ship fulfill the requirements imposed by the present regulations.

When the management of the radio service of a country is convinced by its working that a station on shipboard does not fulfill the requirements, it shall, in every case, address a complaint to the management of the radio service of the country to which such ship is a subject. The subsequent procedure, when necessary, shall be the same as that prescribed in Article XII, paragraph 2.

ARTICLE X

1. The service of the station on shipboard shall be carried on by a telegraph operator holding a certificate issued by the government to which the vessel is subject, or, in case of necessity and for one voyage only, by some other adhering government.

2. There shall be two classes of certificates:

The first class certificate shall attest the professional efficiency of the operator as regards:

- (a) Adjustment of the apparatus and knowledge of its functioning;
- (b) Transmission and acoustic reception at the rate of not less than 20 words a minute;
- (c) Knowledge of the regulations governing the exchange of radio correspondence.

The second class certificate may be issued to operators who are able to transmit and receive at a rate of only 12 to 19 words a minute but who, in other respects, fulfill the requirements mentioned above. Operators holding second class certificates may be permitted on:

(a) Vessels which use radiotelegraphy only in their own service and in the correspondence of their crews, fishing vessels in particular;

(b) All vessels, as substitutes, provided such vessels have on board at least *one* operator holding a first class certificate. However, on vessels classed under the first category indicated in Article XIII, the service shall be carried on by at least two telegraph operators holding first class certificates.

In the stations on shipboard, transmissions shall be made only by operators holding first or second class certificates except in cases of necessity where it would be impossible to conform to this provision.

3. The certificate shall furthermore state that the government has bound the operator to secrecy with regard to the correspondence.

4. The radio service of the station on shipboard shall be under the superior authority of the commanding officer of the ship.

ARTICLE XI

Ships provided with radio installations and classed under the first two categories indicated in Article XIII are bound to have radio installations for distress calls all the elements of which shall be kept under conditions of the greatest possible safety to be determined by the government issuing the license. Such emergency installations shall have their own source of energy, be capable of quickly being set into operation, of functioning for at least six hours, and have a minimum range of 80 nautical miles for ships of the first category and 50 miles for those of the second. Such emergency installations shall not be required in the case of vessels the regular installations of which fulfill the requirements of the present article.

ARTICLE XII

If the management of the radio service of a country has knowledge of any infraction of the convention or of the regulations committed in any of the stations authorized by it, it shall ascertain the facts and fix the responsibility.

In the case of stations on shipboard, if the operator is responsible for

such infraction, the management of the radio service shall take the necessary measures, and, if the necessity should arise, withdraw the certificate. If it is ascertained that the infraction is the result of the condition of the apparatus or of instructions given the operator, the same method shall be pursued with regard to the license issued to the vessel.

2. In cases of repeated infractions chargeable to the same vessel, if the representations made to the management of the country to which the vessel is subject by that of another country remain without effect, the latter shall be at liberty, after giving due notice, to authorize its coastal stations not to accept communications proceeding from the vessel at fault. In case of disagreement between the managements of the radio service of two countries, the question shall be submitted to arbitration at the request of either of the two governments concerned. The procedure is indicated in Article 18 of the convention.

2. Hours of Service of Stations

ARTICLE XIII

(a) Coastal stations:

1. The service of coastal stations shall, as far as possible, be constant, day and night, without interruption.

Certain coastal stations, however, may have a service of limited duration. The management of the radio service of each country shall fix the hours of service.

2. The coastal stations whose service is not constant shall not close before having transmitted all their radiograms to the vessels which are within their radius of action, nor before having received from such vessels all the radiograms of which notice has been given. This provision is likewise applicable when vessels signal their presence before the actual cessation of work.

(b) Stations on shipboard:

3. Stations on shipboard shall be classed under three categories:

- (1) Stations having constant service;
- (2) Stations having a service of limited duration;
- (3) Stations having no fixed working hours.

When the ship is under way, the following shipboard stations shall have an operator constantly listening in: 1st, Stations of the first category; 2nd, Those of the second category during the hours in which they

are open to service. During the remaining hours, the last named stations shall have an operator at the radio instrument listening in during the first ten minutes of each hour. Stations of the third category are not bound to perform any regular service of listening in.

It shall fall to the governments issuing the licenses specified in Article IX to fix the category in which the ship shall be classed as regards its obligations in the matter of listening in. Mention shall be made of such classification in the license.

3. Form and Posting of Radiograms

ARTICLE XIV

1. Radiograms shall show, as the first word of the preamble, that the service is "radio."

2. In the transmission of radiograms proceeding from a ship at sea, the date and hour of posting at the shipboard station shall be stated in the preamble.

3. Upon forwarding a radiogram over the telegraph system, the coastal station shall show thereon as the office of origin, the name of the ship of origin as it appears in the list, and also when the case arises, that of the last ship which acted as intermediary. These data shall be followed by the name of the coastal station.

ARTICLE XV

The address of radiograms intended for ships shall be as complete as possible.

It shall embrace the following:

(a) The name or title of the addressee, with additional designations, if any;

(b) The name of the vessel as it appears in the first column of the list;

(c) The name of the coastal station as it appears in the list.

The name of the ship, however, may be replaced, at the sender's risk, by the designation of the route to be followed by such vessel, as determined by the names of the ports of departure and destination or by any other equivalent information.

2. In the address, the name of the ship as it appears in the first column of the list, shall, in all cases and independently of its length, be counted as one word.

3. Radiograms framed with the aid of the International Code of Signals shall be transmitted to their destination without being translated.

4. Rates

ARTICLE XVI

1. The coastal rate and the shipboard rate shall be fixed in accordance with the tariff per word, pure and simple, on the basis of an equitable remuneration for the radio work, with an optional minimum rate per radiogram.

The coastal rate shall not exceed 60 centimes (11.6 cents) a word, and the shipboard rate shall not exceed 40 centimes (7.7 cents) a word. However, each management shall be at liberty to authorize coastal and shipboard rates higher than such maxima in the case of stations of ranges exceeding 400 nautical miles, or of stations whose work is exceptionally difficult owing to physical conditions in connection with the installation or working of the same.

The optional minimum rate per radiogram shall not be higher than the coastal rate or shipboard rate for a radiogram of ten words.

2. In the case of radiograms proceeding from or destined for a country and exchanged directly with the coastal stations of such country, the rate applicable to the transmission over the telegraph lines shall not, on the average, exceed the inland rate of such country.

Such rate shall be computed per word, pure and simple, with an optional minimum rate which shall not exceed the rate for ten words. It shall be stated in francs by the management of the radio service of the country to which the coastal station is subject.

In the case of countries of the European system, with the exception of Russia and Turkey, there shall be but one rate for the territory of each country.

ARTICLE XVII

1. When a radiogram proceeding from a ship and intended for the coast passes through one or two shipboard stations, the charges shall comprise, in addition to the rates of the shipboard station of origin, the coastal station and the telegraph lines, the shipboard rate of each of the ships which have participated in the transmission.

2. The sender of a radiogram proceeding from the coast and intended for a ship may require that his message be transmitted by way of one

or two stations on shipboard; he shall deposit for this purpose an amount equal to the radio and telegraph rates and, in addition, a sum to be fixed by the office of origin, as surety for the payment to the intermediary shipboard stations of the transit rates fixed by paragraph 1. He shall further pay, at his option, either the rate for a telegram of five words or the price of the postage on a letter to be sent by the coastal station to the office of origin giving the necessary information for the liquidation of the amounts deposited.

The radiogram shall then be accepted at the sender's risk; it shall show before the address the prepaid instruction, to wit: "X retransmissions telegraph" or "X retransmissions letter" according to whether the sender desired the information necessary for the liquidation of the deposits to be furnished by telegraph or by letter.

3. The rate for radiograms proceeding from a ship intended for another ship, and forwarded through one or two intermediary coastal stations, shall comprise:

The shipboard rates of the two ships, the coastal rate of the coastal station or two coastal stations, as the case may be, and the telegraph rate, when necessary, applicable to the transmission between the two coastal stations.

4. The rate for radiograms exchanged between ships without the intervention of a coastal station shall comprise the shipboard rates of the vessels of origin and destination together with the shipboard rates of the intermediary stations.

5. The coastal and shipboard rates accruing to the stations of transit shall be the same as those fixed for such stations when they are stations of origin or destination. In no case shall they be collected more than once.

6. In the case of every coastal station acting as intermediary, the rate to be collected for the service of transit shall be the highest coastal rate applicable to direct communication with the two ships concerned.

ARTICLE XVIII

The country within whose territory a coastal station is established which serves as intermediary for the exchange of radiograms between a station on board ship and another country shall be considered, so far as the application of telegraph rates is concerned, as the country of origin or of destination of such radiograms, and not as the country of transit.

5. Collection of Charges

ARTICLE XIX

The total charge for radiograms shall be collected of the sender, with the exception of:

(1) Charges for special delivery (Art. LVIII, par. 1, of the Telegraph Regulations); (2) Charges applicable to inadmissible combinations or alterations of words noted by the office or station of destination (Art. XIX, par. 9, of the Telegraph Regulations) such charges being collected of the addressee.

Stations on shipboard shall to that end have the necessary tariffs. They shall be at liberty, however, to obtain information from coastal stations on the subject of rates for radiograms for which they do not possess all the necessary data.

2. The counting of words by the office of origin shall be conclusive in the case of radiograms intended for ships and that of the shipboard station of origin shall be conclusive in the case of radiograms proceeding from ships, both for purposes of transmission and of the international accounts. However, when the radiogram is worded wholly or in part, either in one of the languages of the country of destination, in the case of radiograms proceeding from ships, or in one of the languages of the country to which the ship is subject, in the case of radiograms intended for ships, and contains combinations or alterations of words contrary to the usage of such language, the bureau or shipboard station of destination, as the case may be, shall have the right to recover from the addressee the amount of charge not collected. In case of refusal to pay, the radiogram may be withheld.

6. Transmission of Radiograms

(A) SIGNALS OF TRANSMISSION

ARTICLE XX

The signals to be employed are those of the Morse International Code.

ARTICLE XXI

Ships in distress shall use the following signal:

. . . — — — . . .

repeated at brief intervals, followed by the necessary particulars.

As soon as a station hears the signal of distress it shall cease all correspondence and not resume it until after it has made sure that the correspondence to which the call for assistance has given rise is terminated.

Stations which hear a signal of distress shall conform to the instructions given by the ship making such signal as regards the order of the messages or their cessation.

In case the call letters of a particular station are added at the end of the series of calls for assistance, the answer to the call shall be incumbent upon that station alone unless such station fails to reply. If the call for assistance does not specify any particular station, every station hearing such call shall be bound to answer it.

ARTICLE XXII

For the purpose of giving or requesting information concerning the radio service, stations shall make use of the signals contained in the list appended to the present regulations.

(B) ORDER OF TRANSMISSION

ARTICLE XXIII

Between two stations radiograms of the same order shall be transmitted one by one, by the two stations alternately, or in series of several radiograms, as the coastal station may indicate, provided the duration of the transmission of each series does not exceed fifteen minutes.

(C) METHOD OF CALLING RADIO STATIONS AND TRANSMISSION OF RADIO-GRAMS

ARTICLE XXIV

1. As a general rule, it shall be the shipboard station that calls the coastal station whether it has radiograms to transmit or not.

2. In waters where the radio traffic is very great (British Channel, etc.), a coastal station should not, as a general rule, be called by a shipboard station unless the former is within normal range of the shipboard station and not until the distance of the vessel from the coastal station is less than 75 per cent of the normal range of the latter.

3. Before proceeding to call, the coastal station or the station on shipboard shall adjust its receiving apparatus to its maximum sensibility and make sure that no other correspondence is being carried on

within its radius of action; if it finds otherwise, it shall wait for the first pause, unless it is convinced that its call will not be likely to disturb the correspondence in progress. The same applies in case the station desires to answer a call.

4. For calling, every station shall use the normal wave of the station it wishes to call.

5. If in spite of these precautions the transmission of a radiogram is impeded at any place, the call shall cease upon the first request from a coastal station open to public correspondence. The latter station shall in such case indicate the approximate length of time it will be necessary to wait.

6. The station on shipboard shall make known to every coastal station to which it has signaled its presence the moment at which it proposes to cease its operations and the probable duration of the interruption.

ARTICLE XXV

1. The call shall comprise the signal

— . — . — ,

the call letters of the station called transmitted three times, the word "from" (de) followed by the call letters of the sending station transmitted three times.

2. The called station shall answer by making the signal

— . — . — ,

followed by the call letters of the corresponding station transmitted three times, the word "from," its own call letters, and the signal

— . — .

3. Stations desiring to enter into communication with ships, without, however, knowing the names of the ships within their radius of action, may employ the signal — . — . — . — (signal of inquiry). The provisions of paragraphs 1 and 2 are likewise applicable to the transmission of a signal of inquiry and to the answer to such signal.

ARTICLE XXVI

If a station called does not answer the call (Article XXV) transmitted three times at intervals of two minutes, the call shall not be resumed until after an interval of fifteen minutes, the station issuing the call having first made sure of the fact that no radio correspondence is in progress.

ARTICLE XXVII

Every station which has occasion to transmit a radiogram requiring the use of high power shall first send out three times the signal of warning — — . . — — , with the minimum of power necessary to reach the neighboring stations. It shall not begin to transmit with high power until 30 seconds after sending the signal of warning.

ARTICLE XXVIII

1. As soon as the coastal station has answered, the shipboard station shall furnish it with the following data in case it has messages to transmit; such data shall likewise be furnished upon request from the coastal station:

- (a) The approximate distance, in nautical miles, of the vessel from the coastal station;
- (b) The position of the vessel indicated in a concise form and adapted to the circumstances of the case;
- (c) Her next port of call;
- (d) The number of radiograms, if they are of normal length, or the number of words, if the messages are unusually long.

The speed of the ship in nautical miles shall also be given if specially requested by the coastal station.

2. The coastal station shall answer stating, as provided in paragraph 1, either the number of radiograms or the number of words to be transmitted to the ship, and also the order of transmission.

3. If the transmission can not take place immediately, the coastal station shall inform the station on shipboard of the approximate length of time that it will be necessary to wait.

4. If a shipboard station called can not receive for the moment, it shall inform the station calling of the approximate length of time that it will be necessary to wait.

5. In the exchange of messages between two stations on shipboard, it shall fall to the station called to fix the order of transmission.

ARTICLE XXIX

When a coastal station receives calls from several shipboard stations, it shall decide the order in which such stations shall be admitted to exchange their messages.

In fixing this order the coastal station shall be guided exclusively by

the necessity of permitting each station concerned to exchange the greatest possible number of radiograms.

ARTICLE XXX

Before beginning the exchange of correspondence the coastal station shall advise the shipboard station whether the transmission is to be effected in the alternate order or by series (Article XXIII); it shall then begin the transmission or follow up the preliminaries with the signal

— . — .

ARTICLE XXXI

The transmission of the radiogram shall be preceded by the signal

— . — . —

and terminated by the signal

. — . — .

followed by the name of the sending station and by the signal

— . — .

In the case of a series of radiograms, the name of the sending station and the signal — . — shall only be given at the end of the series.

ARTICLE XXXII

When a radiogram to be transmitted contains more than 40 words, the sending station shall interrupt the transmission by the signal . . — . . after each series of about 20 words and shall not resume it until after it has obtained from the receiving station a repetition of the last word duly received, followed by the said signal, or, if the reception is good, by the signal — . — .

In the case of transmission by series, acknowledgment of receipt shall be made after each radiogram.

Coastal stations engaged in the transmission of long radiograms shall suspend the transmission at the end of each period of 15 minutes, and remain silent for a period of three minutes before resuming the transmission.

Coastal and shipboard stations working under the conditions specified in Article XXXV, par. 2, shall suspend work at the end of each period of 15 minutes and listen in with a wave length of 600 meters during a period of three minutes before resuming the transmission.

ARTICLE XXXIII

1. When the signals become doubtful every possible means shall be resorted to to finish the transmission. To this end the radiogram shall be transmitted three times at most at the request of the receiving station. If in spite of such triple repetition the signals are still unreadable the radiogram shall be cancelled.

If no acknowledgment of receipt is received the transmitting station shall again call up the receiving station. If no reply is made after three calls the transmission shall not be followed up any further. In such case the sending station shall have the privilege of obtaining the acknowledgment of receipt through the medium of another radio station, using, when necessary, the lines of the telegraph system.

2. If in the opinion of the receiving station the radiogram, although imperfectly received, is nevertheless capable of transmission, said station shall enter the words "reception doubtful" at the end of the preamble and let the radiogram follow. In such case the management of the radio service of the country, to which the coastal station is subject shall claim the charges in conformity with Article XLII of the present regulations. If, however, the shipboard station subsequently transmits the radiogram to another coastal station of the same management, the latter can claim only the rates applicable to a single transmission.

(D) ACKNOWLEDGMENT OF RECEIPT AND CONCLUSION OF WORK

ARTICLE XXXIV

1. Receipt shall be acknowledged in the form prescribed by the International Telegraph Regulations; it shall be preceded by the call letters of the transmitting station and followed by those of the receiving station.

2. The conclusion of a correspondence between two stations shall be indicated by each of the two stations by means of the signal

. . . — . —

followed by its own call letters.

(E) DIRECTIONS TO BE FOLLOWED IN SENDING RADIOGRAMS

ARTICLE XXXV

1. In general, the shipboard stations shall transmit their radiograms to the nearest coastal station.

Nevertheless, if a shipboard station has the choice between several coastal stations at equal or nearly equal distances, it shall give the preference to the one established on the territory of the country of destination or normal transit for its radiograms.

2. A sender on board a vessel shall, however, have the right to designate the coastal station through which he desires to have his radiogram transmitted. The station on shipboard shall then wait until such coastal station shall be the nearest.

In exceptional cases transmission may be made to a more distant coastal station, provided that:

(a) The radiogram is intended for the country in which such coastal station is situated and emanates from a ship subject to that country;

(b) Both stations use for calling and transmission a wave length of 1,800 meters;

(c) Transmission with this wave length does not interfere with a transmission made by means of the same wave length by a nearer coastal station;

(d) The station on shipboard is more than 50 nautical miles distant from any coastal station given in the list. The distance of 50 miles may be reduced to 25 miles provided the maximum power at the terminals of the generator does not exceed 5 kilowatts and that the stations on shipboard are established in conformity with Articles VII and VIII. This reduction in the distance shall not be admissible in the seas, bays or gulfs of which the shores belong to one country only and of which the opening to the high sea is less than 100 miles wide.

7. Delivery of Radiograms at their Destination

ARTICLE XXXVI

When for any cause whatever a radiogram proceeding from a vessel at sea and intended for the coast can not be delivered to the addressee, a notice of nondelivery shall be issued. Such notice shall be transmitted to the coastal station which received the original radiogram. The latter, after verifying the address, shall forward the notice to the ship, if possible, by the intervention, if need be, of another coastal station of the same country or of a neighboring country.

When a radiogram received by a shipboard station can not be delivered, the station shall notify the office of the origin by official notice. In the case of radiograms emanating from the coast, such notice shall

ARTICLE XXXIII

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If no acknowledgment of receipt is received the transmitting station shall again call up the receiving station. If no reply is made after three calls the transmission shall not be followed up any further. In such case the sending station shall have the privilege of obtaining the acknowledgment of receipt through the medium of another radio station, using, when necessary, the lines of the telegraph system.

2. If in the opinion of the receiving station the radiogram, although imperfectly received, is nevertheless capable of transmission, said station shall enter the words "reception doubtful" at the end of the preamble and let the radiogram follow. In such case the management of the radio service of the country, to which the coastal station is subject shall claim the charges in conformity with Article XLII of the present regulations. If, however, the shipboard station subsequently transmits the radiogram to another coastal station of the same management, the latter can claim only the rates applicable to a single transmission.

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1. In general, the shipboard stations shall transmit their radiograms to the nearest coastal station.

Nevertheless, if a shipboard station has the choice between several coastal stations at equal or nearly equal distances, it shall give the preference to the one established on the territory of the country of destination or normal transit for its radiograms.

2. A sender on board a vessel shall, however, have the right to designate the coastal station through which he desires to have his radiogram transmitted. The station on shipboard shall then wait until such coastal station shall be the nearest.

In exceptional cases transmission may be made to a more distant coastal station, provided that:

(a) The radiogram is intended for the country in which such coastal station is situated and emanates from a ship subject to that country;

(b) Both stations use for calling and transmission a wave length of 1,800 meters;

(c) Transmission with this wave length does not interfere with a transmission made by means of the same wave length by a nearer coastal station;

(d) The station on shipboard is more than 50 nautical miles distant from any coastal station given in the list. The distance of 50 miles may be reduced to 25 miles provided the maximum power at the terminals of the generator does not exceed 5 kilowatts and that the stations on shipboard are established in conformity with Articles VII and VIII. This reduction in the distance shall not be admissible in the seas, bays or gulfs of which the shores belong to one country only and of which the opening to the high sea is less than 100 miles wide.

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ARTICLE XXXVI

When for any cause whatever a radiogram proceeding from a vessel at sea and intended for the coast can not be delivered to the addressee, a notice of nondelivery shall be issued. Such notice shall be transmitted to the coastal station which received the original radiogram. The latter, after verifying the address, shall forward the notice to the ship, if possible, by the intervention, if need be, of another coastal station of the same country or of a neighboring country.

When a radiogram received by a shipboard station can not be delivered, the station shall notify the office of the origin by official notice. In the case of radiograms emanating from the coast, such notice shall

be transmitted, whenever practicable, to the coastal station through which the radiogram has passed in transit; otherwise, to another coastal station of the same country or of a neighboring country.

ARTICLE XXXVII

If the ship for which a radiogram is intended has not signalled her presence to the coastal station within the period designated by the sender, or, in the absence of such designation, by the morning of the 8th day following, the coastal station shall so notify the office of origin which shall in turn inform the sender.

The latter shall have the right to ask, by a paid official notice, sent by either telegraph or mail and addressed to the coastal station, that his radiogram be held for a further period of 9 days for transmission to the vessel, and so on. In the absence of such request, the radiogram shall be put aside as not transmissible at the end of the 9th day (exclusive of the day of posting).

Nevertheless, if the coastal station is certain that the vessel has left its radius of action before it has been able to transmit the radiogram to her, such station shall immediately so notify the office of origin which shall without delay inform the sender of the cancellation of the message. The sender may, however, by a paid official notice, request the coastal station to transmit the radiogram the next time the vessel shall pass.

8. *Special Radiograms*

ARTICLE XXXVIII

The following radiograms only shall be accepted for transmission.

(1) Radiograms with answer prepaid. Such radiograms shall show before the address the indication "Answer prepaid" or "RP" supplemented by a statement of the amount paid in advance for the answer, thus: "Response Payee fr. x," or "R P fr. x";

The reply voucher issued by a station on shipboard shall carry with it the right to send, within the limits of its value, a radiogram to any destination whatever from the station on shipboard which has issued such voucher.

(2) Radiograms calling for repetition of message (for purposes of verification);

(3) Special delivery radiograms. Only, however, in cases where the amount of the charges for special delivery collected of the addressee.

Countries which can not accept such radiograms shall make a declaration to this effect to the International Bureau. Special delivery radiograms with charges collected of the sender may be accepted when they are intended for the country within whose territory the corresponding station is located.

(4) Radiograms to be delivered by mail;

(5) Multiple radiograms;

(6) Radiograms calling for acknowledgment of receipt. But only as regards notification of the date and hour at which the coastal station shall have transmitted to the station on shipboard the radiogram addressed to the latter.

(7) Paid service notices. Except those requesting a repetition or information. Nevertheless all paid service notices shall be accepted in transmission over the telegraph lines.

(8) Urgent radiograms. But only in transmission over the telegraph lines and subject to the application of the International Telegraph Regulations.

ARTICLE XXXIX

Radiograms may be transmitted by a coastal station to a ship, or by a ship to another ship, with a view to being forwarded by mail from a port of call of the ship receiving the radiogram.

Such radiogram shall not be entitled to any radio retransmission.

The address of such radiogram shall embrace the following:

(1) The paid designation "mail" followed by the name of the port at which the radiogram is to be mailed;

(2) The name and complete address of the addressee;

(3) The name of the station on shipboard by which the radiogram is to be mailed;

(4) When necessary, the name of the coastal station.

Example: Mail Buenosaires 14 Calle Prat Valparaiso Avon Lizard.

The rate shall comprise, in addition to the radio and telegraph rates, a sum of 25 centimes (.048 cents) for the postage on the radiogram.

9. Files

ARTICLE XL

The originals of radiograms together with the documents relating thereto retained by the managements of the radio service shall be kept,

with all the necessary precautions as regards secrecy, for a period of at least fifteen months beginning with the month following that of the posting of the radiogram.

Such originals and documents shall, as far as practicable, be sent at least once a month by the shipboard stations to the management of the radio service to which they are subject.

10. Rebates and Reimbursements

ARTICLE XLI

1. With regard to rebates and reimbursements, the International Telegraph Regulations shall be applicable, taking into account the restrictions specified in Articles XXXVIII and XXXIX of the present regulations and subject to the following reservations:

The time employed in the transmission of radiograms and the time that radiograms remain in a coastal station in the case of radiograms intended for ships, or in the station on shipboard in the case of radiograms proceeding from ships, shall not be counted as delays as regards rebates or reimbursements.

If the coastal station notifies the office of origin that a radiogram can not be transmitted to the ship addressed, the management of the radio service of the country of origin shall immediately instigate reimbursement to the sender of the coastal and shipboard rates relating to the radiogram. In such case, the refunded charges shall not enter into the accounts provided for by Article XLII. but the radiogram shall be mentioned therein as a memorandum.

Reimbursements shall be borne by the different managements of the radio service and private enterprises which have taken part in the transmission of the radiogram, each management or private enterprise relinquishing its share of the rate. Radiograms to which Articles 7 and 8 of the Convention of St. Petersburg are applicable shall remain subject, however, to the provisions of the International Telegraph Regulations, except when the acceptance of such radiograms is the result of an error made by the telegraph service.

2. When the acknowledgment of receipt of a radiogram has not reached the station which has transmitted the message, the charges shall be refunded only if the fact has been established that the radiogram is entitled to reimbursement.

11. Accounts and Payment of Charges

ARTICLE XLII

1. The coastal and shipboard charges shall not enter into the accounts provided for by the International Telegraph Regulations.

The accounts regarding such charges shall be liquidated by the managements of the radio service of the countries concerned. They shall be drawn up by the radio managements to which the coastal stations are subject, and communicated by them to the radio managements concerned. In cases where the working of the coastal stations is independent of the management of the radio service of the country, the party working such stations may be substituted, as regards the accounts, for the radio management of such country.

2. For transmission over the telegraph lines radiograms shall be treated, so far as the payment of rates is concerned, in conformity with the International Telegraph Regulations.

3. For radiograms proceeding from ships, the radio management to which the coastal station is subject shall charge the radio management to which the shipboard station of origin is subject with the coastal and ordinary telegraph rates, the total charges collected for answers prepaid, the coastal and telegraph rates collected for repetition of message (for purposes of verification), charges relating to special delivery (in the case provided for in Article XXXVIII), or delivery by mail, and those collected for additional copies (TM). The radio management to which the coastal station is subject shall credit, when the case arises, through the channel of the telegraph accounts and through the medium of the offices which have participated in the transmission of the radiograms, the radio management to which the office of destination is subject with the total charges relating to answers prepaid. With respect to the telegraph rates and the charges relating to special delivery or delivery by mail, and to additional copies, the procedure shall be as prescribed in the Telegraph Regulations, the coastal station being considered as the telegraph office of origin.

For radiograms intended for a country lying beyond the country to which the coastal station belongs, the telegraph charges to be liquidated in conformity with the above provisions shall be those which result either from tables "A" and "B" annexed to the International Telegraph Regulations, or from special arrangements concluded between the radio managements of adjacent countries and published by such

managements, and not the charges which might be collected in accordance with the special provisions of Articles XXIII, par. 1, and XXVII, par. 1, of the Telegraph Regulations.

For radiograms and paid service notices intended for ships, the radio management to which the office of origin is subject shall be charged directly by that to which the coastal station is subject with the coastal and shipboard rates. However, the total charges relating to answers prepaid shall be credited, if there is occasion, from country to country, through the channel of the telegraph accounts, until they reach the radio management to which the coastal station is subject. As regards the telegraph charges and the charges relating to delivery by mail and additional copies, the procedure shall be as prescribed in the Telegraph Regulations. The radio management to which the coastal station is subject shall credit that to which the ship of destination is subject with the shipboard rate, if there is occasion, with the rates accruing to the intermediary shipboard stations, the total charge collected for answers prepaid, the shipboard rates for repetition of message (for purposes of verification), and the charges collected for the preparation of additional copies and for delivery by mail.

Paid service notices and answers prepaid shall be treated in the radio accounts in all respects the same as other radiograms.

For radiograms transmitted by means of one or two intermediary stations on shipboard, each one of such stations shall charge the shipboard station of origin, in the case of a radiogram proceeding from a ship, or that of destination, in the case of a radiogram intended for a ship, with the shipboard rate accruing to it for transit.

4. In general, the liquidation of accounts relating to correspondence between stations on shipboard shall be effected directly between the companies working such stations, the station of origin being charged by the station of destination.

5. The monthly accounts serving as a basis for the special accounts of radiograms shall be made out for each radiogram separately with all the necessary data within a period of six months from the month to which they refer.

6. The governments reserve the right to enter into special agreements among themselves and with private companies (parties operating radio stations, shipping companies, etc.) with a view of adopting other provisions with regard to accounts.

12. International Bureau

ARTICLE XLIII

The additional expenses resulting from the work of the International Bureau so far as radio telegraphy is concerned shall not exceed 80,000 francs a year, exclusive of the special expenses arising from the convening of the international conference.

The managements of the radio service of the contracting states shall, so far as contribution to the expenses is concerned, be divided into six classes, as follows:

1st Class:

Union of South Africa; Germany; United States of America; Alaska; Hawaii and the other American possessions in Polynesia; Philippine Islands; Porto Rico and the American possessions in the Antilles; Panama Canal Zone; Argentine Republic; Australia; Austria; Brazil; Canada; France; Great Britain; Hungary; British India; Italy; Japan; New Zealand; Russia; Turkey.

2nd Class:

Spain.

3rd Class:

Russian Central Asia (littoral of the Caspian Sea); Belgium; Chile; Chosen, Formosa, Japanese Sakhalin and the leased territory of Kwantung; Dutch Indies; Norway; Netherlands; Portugal; Roumania; Western Siberia (littoral of the Arctic Ocean); Eastern Siberia (littoral of the Pacific Ocean); Sweden.

4th Class:

German East Africa; German Southwest Africa; Kamerun; Togo Land; German Protectorates in the Pacific; Denmark; Egypt; Indo-China; Mexico; Siam; Uruguay.

5th Class:

French West Africa; Bosnia-Herzegovina; Bulgaria; Greece; Madagascar; Tunis.

6th Class:

French Equatorial Africa; Portuguese West Africa; Portuguese East Africa and the Portuguese possessions in Asia; Bokhara; Belgian Congo; Colony of Curacao; Spanish Colony of the Gulf of Guinea; Eritrea; Khiva; Morocco; Monaco; Persia; San Marino; Italian Somaliland.

ARTICLE XLIV

The management of the radio service of the different countries shall forward to the International Bureau a table in conformity with the annexed blank, containing the data enumerated in said table for stations such as referred to in Article V of the regulations. Changes occurring and additional data shall be forwarded by the radio managements to the International Bureau between the 1st and 10th days of each month. With the aid of such data the International Bureau shall draw up the list provided for in Article V. The list shall be distributed to the radio managements concerned. The list and the supplements thereto may also be sold to the public at the cost price.

The International Bureau shall see to it that the same call letters for several radio stations shall not be adopted.

13. Meteorological Radiograms, Time Signals and other Radiograms

ARTICLE XLV

1. The managements of the radio service shall take the necessary steps to supply their coastal stations with meteorological radiograms containing indications concerning the district of such stations. Such radiograms, the text of which shall not exceed 20 words, shall be transmitted to ships upon request. The rate for such meteorological radiograms shall be carried to the account of the ships to which they are addressed.

2. Meteorological observations made by certain vessels designated for this purpose by the country to which they are subject, may be transmitted once a day, as paid service notices, to the coastal stations authorized to receive the same by the managements concerned, who shall likewise designate the meteorological offices to which such observations shall be addressed by the coastal stations.

3. Time signals and meteorological radiograms shall be transmitted one after the other in such a way that the total time occupied in their transmission shall not exceed ten minutes. As a general rule, all radio stations whose transmissions might interfere with the reception of such signals and radiograms, shall remain silent during their transmission in order that all stations desiring it may be able to receive the same. Exception shall be made in cases of distress calls and of state telegrams.

4. The managements of the radio service shall give to agencies of maritime information such data regarding losses and casualties at sea or other information of general interest to navigation, as the coastal stations may properly report.

14. Miscellaneous Provisions

ARTICLE XLVI

The exchange of correspondence between shipboard stations shall be carried on in such a manner as not to interfere with the service of the coastal stations, the latter, as a general rule, being accorded the right of priority for the public service.

ARTICLE XLVII

Coastal stations and stations on shipboard shall not be bound to participate in the retransmission of radiograms except in cases where direct communication cannot be established between the stations of origin and destination.

The number of such retransmissions shall, however, be limited to two.

In the case of radiograms intended for the coast, retransmission shall take place only for the purpose of reaching the nearest coastal station.

Retransmission shall in every case be subject to the condition that the intermediate station which receives the radiogram in transit is in a position to forward it.

ARTICLE XLVIII

If the route of a radiogram is partly over telegraph lines, or through radio stations subject to a non-contracting government, such radiograms may be transmitted provided the management of the radio service to which such lines or stations are subject have declared that, if the occasion should arise, they will comply with such provisions of the convention and of the regulations as are indispensable to the regular transmission of radiograms and that the payment of charges is insured. Such declaration shall be made to the International Bureau and communicated to the offices of the Telegraph Union.

ARTICLE XLIX

Modifications of the present regulations which may be rendered necessary in consequence of the decisions of subsequent telegraph confer-

ences shall go into effect on the date fixed for the application of the provisions adopted by each one of such conferences.

ARTICLE L

The provisions of the International Telegraph Regulations shall be applicable analogously to radio correspondence in so far as they are not contrary to the provisions of the present regulations. The following provisions of the Telegraph Regulations, in particular, shall be applicable to radio correspondence: Article XXVII, paragraphs 3 to 6, relating to the collection of charges; Articles XXVI and XLI relating to the indication of the route to be followed; Article LXXV, paragraph 1, LXXVIII, paragraphs 2 to 4, and LXXIX, paragraphs 2 and 4, relating to the preparation of accounts. However:— (1) The period of six months provided by paragraph 2 of Article LXXIX of the Telegraph Regulations for the verification of accounts shall be extended to nine months in the case of radiograms; (2) The provisions of Article XVI, paragraph 2, shall not be considered as authorizing gratuitous transmission, through radio stations, of service telegrams relating exclusively to the telegraph service, nor the free transmission over the telegraph lines of service telegrams relating exclusively to the radio service; (3) The provisions of Article LXXIX, paragraphs 3 and 5, shall not be applicable to radio accounts. As regards the application of the provisions of the Telegraph Regulations, coastal stations shall be considered as offices of transit except when the Radio Regulations expressly stipulate that such stations shall be considered as offices of origin or of destination.

In conformity with Article 11 of the Convention of London, the present regulations shall go into effect on the first day of July, 1913.

In witness whereof the respective plenipotentiaries have signed one copy of these regulations, which shall be deposited in the archives of the British Government, and a copy of which shall be transmitted to each of the parties.

For Germany and the German Protectorates:

B. KOEHLER
O. WACHENFELD
DR. KARL STRECKER
SCHRADER
GOETSCH
DR. EMIL KRAUSS
FIELITZ.

For the United States and the possessions of the United States:

JOHN R. EDWARDS
JNO. Q. WALTON
WILLIS L. MOORE
LOUIS W. AUSTIN
GEORGE OWEN SQUIER
EDGAR RUSSEL
C. MCK. SALTZMAN
DAVID WOOSTER TODD
JOHN HAYS HAMMOND, Jr.
WEBSTER
W. D. TERRELL
JOHN I. WATERBURY.

For Argentine Republic:

VICENTE J. DOMINGUEZ.

For Austria:

DR. FRITZ RITTER WAGNER VON JAUREGG
DR. RUDOLPH RITTER SPEIL V. OSTHEIM.

For Hungary:

CHARLES FOLLÉRT
DR. DE HENNYEY.

For Bosnia-Herzegovina:

H. GOIGINGER, G. M.
ADOLF DANINGER
A. CICOLI
ROMEO VIO.

For Belgium:

J. BANNEUX
DELDIME.

For Belgian Congo:

ROBERT B. GOLDSCHMIDT.

For Brazil:

DR. FRANCISCO BHERING.

For Bulgaria:

IV. STOYANOVITCH.

For Chile:

C. E. RICKARD.

For Denmark:

N. MEYER

J. A. VÖHTZ
R. N. A. FABER
T. F. KRARUP.

For Egypt:

J. S. LIDDELL.

For Spain and the Spanish Colonies:

JACOBO GARCIA ROURE
JUAN DE CARRANZA Y GARRIDO
JACINTO LABRADOR
ANTONIO NIETO
TOMÁS FERNANDEZ QUINTANA
JAIME JANER ROBINSON.

For France and Algeria:

A. FROUIN.

For French West Africa:

A. DUCHÊNE.

For French Equatorial Africa:

A. DUCHÊNE.

For Indo-China:

A. DUCHÊNE.

For Madagascar:

A. DUCHÊNE.

For Tunis:

ET. DE FELCOURT.

For Great Britain and the various British Colonies and Protectorates:

H. BABINGTON SMITH
E. W. FARNALL
E. CHARLTON
G. M. W. MACDONOGH.

For Union of South Africa:

RICHARD SOLOMON.

For Australian Federation:

CHARLES BRIGHT.

For Canada:

G. J. DESBARATS.

For British India:

H. A. KIRK
DEMPSTER.

For New Zealand:

C. WRAY PALLISER.

For Greece:

C. DOSIOS.

For Italy and the Italian Colonies:

PROF. A. BATTELLI.

For Japan and for Chosen, Formosa, Japanese Sakhalin, and the leased territory of Kwantung:

TETSUJIRO SAKANO

KENJI IDE

RIUJI NAKAYAMA

SEIICHI KUROSE.

For Morocco:

MOHAMMED EL KABADJ

U. ASENSIO.

For Monaco:

FR. ROUSSEL.

For Norway:

HEFTYE

K. A. KNUDSSÖN.

For Netherlands:

G. J. C. A. POP

J. P. GUÉPIN.

For Dutch Indies and the Colony of Curaçao:

PERK

F. VAN DER GOOT.

For Persia:

MIRZA ABDUL GHAFAR KHAN.

For Portugal and the Portuguese Colonies:

ANTONIO MARIA DA SILVA.

For Roumania:

C. BOERESCU.

For Russia and the Russian possessions and Protectorates:

N. DE ETTER

P. OSSADTCHY

A. EULER

SERGUEIEVITCH

V. DMITRIEFF

D. SOKOLTSOW

For Republic of San Marino:

For Siam:

WM. J. ARCHER.

RYDIN

For Turkey:

M. EMIN

M. FAHRY

OSMAN SADI.

FED. R. VIDIELLA.

Radio Management of ———, Service Particulars of Radio Stations

Name.	Nationality.
	Geographical location: E. East longitude, O. West longitude, N. North latitude, S. South latitude. Territorial subdivisions.
	Call letters.
	Normal range in nautical miles.
	Radio system with the characteristics of the transmitting system.
	Wave lengths in meters (the normal wave length to be underscored).
	Nature of service furnished.
	Hours during which station is open (local standard time).
	Coastal rate, per word in france, minimum rate per radiogram, in franca.
	Remarks. (When necessary hour and manner of sending time signals and meteorological radiograms.)

	Name.
	Nationality.
	Call letters.
	Normal range. In nautical miles.
	Radio system with the characteristics of the transmitting system.
	Wave lengths in meters.
	Nature of service furnished.
	Hours during which the station is open.
	Shipboard rate per word in France, minimum rate per radiogram in France (1) War vessels (2) Merchant vessels.
	Remarks. (When necessary name and address of the party working the station.)

List of Abbreviations to be used in Radio Communications

Abbreviation.	Question.	Answer or Notice.
1	2	3
(C Q).	(T R).	
(f).....		
PRB	Do you wish to communicate by means of the International Signal Code?	Signal of enquiry made by a station desiring to communicate. Signal announcing the sending of particulars concerning a station on shipboard (Art. XXII). Signal indicating that a station is about to send at high power. I wish to communicate by means of the International Signal Code. This is My distance is My true bearing is degrees. I am bound for I am bound from I belong to the Line. My wave length is meters. I have words to send. I am receiving well. I am receiving badly. Please send 20.
QRA QRB QRC QRD QRE QRF QRG QRH QRJ QRK QRL	What ship or coast station is that? What is your distance? What is your true bearing? Where are you bound for? Where are you bound from? What line do you belong to? What is your wave length in meters? How many words have you to send? How do you receive me? Are you receiving badly? Shall I send 20.	for adjustment? I am being interfered with. Atmospheres are very strong. Increase power. Decrease power. Send faster. Send slower. Stop sending. I have nothing for you. I am ready. All right now. I am busy (or, I am busy with.....). Please do not interfere. Stand by. I will call you when required. Your turn will be No..... Your signals are weak. Your signals are strong. The tone is bad. The spark is bad. Your spacing is bad. My time is Transmission will be in alternate order.
QRM QRN QRO QRP QRQ QRS QRT QRU QRV QRW	Are you being interfered with? Are the atmospheres strong? Shall I increase power? Shall I decrease power? Shall I send faster? Shall I send slower? Shall I stop sending? Have you anything for me? Are you ready? Are you busy?	for adjustment? I am being interfered with. Atmospheres are very strong. Increase power. Decrease power. Send faster. Send slower. Stop sending. I have nothing for you. I am ready. All right now. I am busy (or, I am busy with.....). Please do not interfere. Stand by. I will call you when required. Your turn will be No..... Your signals are weak. Your signals are strong. The tone is bad. The spark is bad. Your spacing is bad. My time is Transmission will be in alternate order.
QRX QRY QRZ QSA QSB QSC QSD QSF	Shall I stand by? When will be my turn? Are my signals weak? Are my signals strong? Is my tone bad? Is my spark bad? Is my spacing bad? What is your time? Is transmission to be in alternate order or in series?	Transmission will be in series of 5 messages. Transmission will be in series of 10 messages. Collect..... The last radiogram is cancelled. Please acknowledge. My true course is degrees. I am not in communication with land. I am in communication with(through) Inform.....that I am calling him.
QSG QSH QSJ QSK QSL QSM QSN QSO	- - - - - What rate shall I collect for.....? Is the last radiogram cancelled? Did you get my receipt? What is your true course? Are you in communication with land? Are you in communication with any ship or station (or: with.....)? Shall I inform.....that you are calling him?	Transmission will be in series of 5 messages. Transmission will be in series of 10 messages. Collect..... The last radiogram is cancelled. Please acknowledge. My true course is degrees. I am not in communication with land. I am in communication with(through) Inform.....that I am calling him.
QSP	Shall I inform.....that you are calling him?	Inform.....that I am calling him.
QSQ QSR QST QSU	Is.....calling me? Will you forward the radiogram? Have you received the general call? Please call me when you have finished (or: at o'clock)?	You are being called by I will forward the radiogram. General call to all stations. Will call when I have finished.
QSV	Is public correspondence being handled?	Public correspondence is being handled. Please do not interfere.
QSW QSY	Shall I increase my spark frequency? Shall I send on a wave length of meters?	Increase your spark frequency. Let us change to the wave length of meters.
QSX	Shall I decrease my spark frequency?	Decrease your spark frequency.

Public correspondence is any radio work, official or private, handled on commercial wave lengths.

When an abbreviation is followed by a mark of interrogation, it refers to the question indicated for that abbreviation.

Stations.	EXAMPLES
A Q R A?	What is the name of your station?
B Q R A Campania	This is the Campania.
A Q R G?	To what line do you belong?
B Q R G Cunard Q R Z	I belong to the Cunard Line. Your signals are weak.
Station A then increases the power of its transmitter and sends:	
A Q R K?	How are you receiving?
B Q R K	I am receiving well.
Q R B 80	The distance between our stations is 80 nautical miles.
Q R C 62	My true bearing is 62 degrees, etc.

INTERNATIONAL TELEGRAPH CONVENTION

Signed at St. Petersburg, July 10/22, 1875

[Articles 1, 2, 3, 5, 6, 7, 8, 11, 12, 17.]¹

ARTICLE I

The high contracting parties recognize that all persons have a right to correspond by international telegraph.

ARTICLE II

They engage to make all necessary provisions to insure the secrecy and quick despatch of such correspondence.

ARTICLE III

Nevertheless they declare that they do not assume any responsibility in respect to the international telegraph service.

¹ Translated from the convention, printed in French, in *British and Foreign State Papers*, Vol. 66, pp. 19-88.

ARTICLE V

Telegrams are classified in three categories:

1. State telegrams: those which emanate from the head of the state, ministers, commanders-in-chief of land and naval forces, diplomatic or consular agents of the contracting governments, as well as the replies to such telegrams.

2. Service telegrams: those which emanate from the telegraphic departments of the contracting states, which relate either to the international telegraphic service, or matters of interest to the public service determined jointly by the said departments.

3. Private telegrams.

State telegrams take precedence over other telegrams in transmission.

ARTICLE VI

State and service telegrams may be sent in secret code on all matters.

Private telegrams may be exchanged in secret code between two states which permit this mode of correspondence.

States which do not permit the sending or receiving of private telegrams in secret code must permit their transmission through their territory, except in case of the suspension defined in Article VIII.

ARTICLE VII

The high contracting parties reserve the right to stop the transmission of any private telegram which may appear to be dangerous to the security of the state or which may be contrary to the laws of the country, public order, or good morals.

ARTICLE VIII

Each government also reserves the right to suspend the international telegraphic service for any length of time, if it deems this necessary, either generally, or only on certain lines and for certain kinds of correspondence, on condition that each of the other contracting governments be notified immediately.

ARTICLE IX

Telegrams relating to the international telegraphic service of the contracting states are transmitted free over all the lines of the said states.

ARTICLE XII

The high contracting parties must render each other an account of the tolls collected by each of them.

ARTICLE XVII

The high contracting parties, respectively, reserve the right to make special arrangements of all kinds with any one of their number upon matters of the service which are not of interest to the states in general.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND HIS MAJESTY THE KING OF ITALY, AMENDING THE TREATY OF COMMERCE AND NAVIGATION CONCLUDED FEBRUARY 26, 1871, BETWEEN THE SAME HIGH CONTRACTING PARTIES ¹

Signed at Washington, February 25, 1913; ratifications exchanged July 3, 1913

The United States of America and His Majesty the King of Italy, desiring to define more accurately the rights of their respective citizens in the territories of the other, have for that purpose determined to conclude a treaty amendatory of Article III of the Treaty of Commerce and Navigation of February 26, 1871, between the two countries and have named as their respective plenipotentiaries:

The President of the United States of America: Philander C. Knox, Secretary of State of the United States of America;

His Majesty the King of Italy: The Marquis Cusani Confalonieri, Commander of the Order of Saint Maurice and Saint Lazarus, Grand Cordon of the Order of the Crown of Italy, etc., etc., His Ambassador Extraordinary and Plenipotentiary at Washington:

And the said plenipotentiaries having exhibited, each to the other, their full powers, found to be in good and due form, have concluded and signed the following articles:

ARTICLE I

It is agreed between the high contracting parties that the first paragraph of Article III of the Treaty of Commerce and Navigation of

¹ U. S. Treaty Series, No. 580.

February 26, 1871, between the United States and Italy shall be replaced by the following provision:

The citizens of each of the high contracting parties shall receive in the states and territories of the other the most constant security and protection for their persons and property and for their rights, including that form of protection granted by any State or national law which establishes a civil responsibility for injuries or for death caused by negligence or fault and gives to relatives or heirs of the injured party a right of action, which right shall not be restricted on account of the nationality of said relatives or heirs; and shall enjoy in this respect the same rights and privileges as are or shall be granted to nationals, provided that they submit themselves to the conditions imposed on the latter.

ARTICLE II

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Majesty the King of Italy, in accordance with the constitutional forms of that kingdom, and shall go into operation upon the exchange of the ratifications thereof, which shall be effected at Washington as soon as practicable.

In faith whereof the plenipotentiaries of the high contracting parties have signed the present treaty in duplicate in the English and Italian languages, and have affixed thereto their respective seals.

Done at Washington this 25th day of February in the year of our Lord one thousand nine hundred and thirteen.

[SEAL] PHILANDER C. KNOX.

[SEAL] CUSANI.

ADDRESS OF THE PRESIDENT OF THE UNITED STATES ON MEXICAN AFFAIRS ¹

August 27, 1913

GENTLEMEN OF THE CONGRESS:

It is clearly my duty to lay before you, very fully and without reservation, the facts concerning our present relations with the Republic of Mexico. The deplorable posture of affairs in Mexico I need not describe, but I deem it my duty to speak very frankly of what this Government

¹ Pamphlet printed by the Department of State at Washington.

has done and should seek to do in fulfillment of its obligation to Mexico herself, as a friend and neighbor, and to American citizens whose lives and vital interests are daily affected by the distressing conditions which now obtain beyond our southern border.

Those conditions touch us very nearly. Not merely because they lie at our very doors. That of course makes us more vividly and more constantly conscious of them, and every instinct of neighborly interest and sympathy is aroused and quickened by them; but that is only one element in the determination of our duty. We are glad to call ourselves the friends of Mexico, and we shall, I hope, have many an occasion, in happier times as well as in these days of trouble and confusion, to show that our friendship is genuine and disinterested, capable of sacrifice and every generous manifestation. The peace, prosperity, and contentment of Mexico mean more, much more, to us than merely an enlarged field for our commerce and enterprise. They mean an enlargement of the field of self-government and the realization of the hopes and rights of a nation with whose best aspirations, so long suppressed and disappointed, we deeply sympathize. We shall yet prove to the Mexican people that we know how to serve them without first thinking how we shall serve ourselves.

But we are not the only friends of Mexico. The whole world desires her peace and progress; and the whole world is interested as never before. Mexico lies at last where all the world looks on. Central America is about to be touched by the great routes of the world's trade and intercourse running free from ocean to ocean at the Isthmus. The future has much in store for Mexico, as for all the States of Central America; but the best gifts can come to her only if she be ready and free to receive them and to enjoy them honorably. America in particular—America north and south and upon both continents—waits upon the development of Mexico; and that development can be sound and lasting only if it be the product of a genuine freedom, a just and ordered government founded upon law. Only so can it be peaceful or fruitful of the benefits of peace. Mexico has a great and enviable future before her, if only she choose and attain the paths of honest constitutional government.

The present circumstances of the Republic, I deeply regret to say, do not seem to promise even the foundations of such a peace. We have waited many months, months full of peril and anxiety, for the conditions there to improve, and they have not improved. They have grown

worse, rather. The territory in some sort controlled by the provisional authorities at Mexico City has grown smaller, not larger. The prospect of the pacification of the country, even by arms, has seemed to grow more and more remote; and its pacification by the authorities at the capital is evidently impossible by any other means than force. Difficulties more and more entangle those who claim to constitute the legitimate government of the Republic. They have not made good their claim in fact. Their successes in the field have proved only temporary. War and disorder, devastation and confusion, seem to threaten to become the settled fortune of the distracted country. As friends we could wait no longer for a solution which every week seemed further away. It was our duty at least to volunteer our good offices—to offer to assist, if we might, in effecting some arrangement which would bring relief and peace and set up a universally acknowledged political authority there.

Accordingly, I took the liberty of sending the Hon. John Lind, formerly governor of Minnesota, as my personal spokesman and representative, to the City of Mexico, with *the following instructions*:

Press very earnestly upon the attention of those who are now exercising authority or wielding influence in Mexico the following considerations and advice:

The Government of the United States does not feel at liberty any longer to stand inactively by while it becomes daily more and more evident that no real progress is being made towards the establishment of a government at the City of Mexico which the country will obey and respect.

The Government of the United States does not stand in the same case with the other great Governments of the world in respect of what is happening or what is likely to happen in Mexico. We offer our good offices, not only because of our genuine desire to play the part of a friend, but also because we are expected by the powers of the world to act as Mexico's nearest friend.

We wish to act in these circumstances in the spirit of the most earnest and disinterested friendship. It is our purpose in whatever we do or propose in this perplexing and distressing situation not only to pay the most scrupulous regard to the sovereignty and independence of Mexico—that we take as a matter of course to which we are bound by every obligation of right and honor—but also to give every possible evidence that we act in the interest of Mexico alone, and not in the interest of any person or body of persons who may have personal or property claims in Mexico which they may feel that they have the right to press. We are seeking to counsel Mexico for her own good and in the interest of her own peace, and not for any other purpose whatever. The Government of the United States would deem itself discredited if it had any selfish or ulterior purpose in transactions where the peace, happiness, and prosperity of a whole people are involved. It is acting as its friendship for Mexico, not as any selfish interest, dictates.

The present situation in Mexico is incompatible with the fulfillment of international

obligations on the part of Mexico, with the civilized development of Mexico herself, and with the maintenance of tolerable political and economic conditions in Central America. It is upon no common occasion, therefore, that the United States offers her counsel and assistance. All America cries out for a settlement.

A satisfactory settlement seems to us to be conditioned on—

(a) An immediate cessation of fighting throughout Mexico, a definite armistice solemnly entered into and scrupulously observed;

(b) Security given for an early and free election in which all will agree to take part;

(c) The consent of Gen. Huerta to bind himself not to be a candidate for election as President of the Republic at this election; and

(d) The agreement of all parties to abide by the results of the election and co-operate in the most loyal way in organizing and supporting the new administration.

The Government of the United States will be glad to play any part in this settlement or in its carrying out which it can play honorably and consistently with international right. It pledges itself to recognize and in every way possible and proper to assist the administration chosen and set up in Mexico in the way and on the conditions suggested.

Taking all the existing conditions into consideration, the Government of the United States can conceive of no reasons sufficient to justify those who are now attempting to shape the policy or exercise the authority of Mexico in declining the offices of friendship thus offered. Can Mexico give the civilized world a satisfactory reason for rejecting our good offices? If Mexico can suggest any better way in which to show our friendship, serve the people of Mexico, and meet our international obligations, we are more than willing to consider the suggestion.

Mr. Lind executed his delicate and difficult mission with singular tact, firmness, and good judgment, and made clear to the authorities at the City of Mexico not only the purpose of his visit but also the spirit in which it had been undertaken. But the proposals he submitted were rejected, in a note the full text of which I take the liberty of laying before you.

I am led to believe that they were rejected partly because the authorities at Mexico City had been grossly misinformed and misled upon two points. They did not realize the spirit of the American people in this matter, their earnest friendliness and yet sober determination that some just solution be found for the Mexican difficulties; and they did not believe that the present administration spoke, through Mr. Lind, for the people of the United States. The effect of this unfortunate misunderstanding on their part is to leave them singularly isolated and without friends who can effectually aid them. So long as the misunderstanding continues we can only await the time of their awakening to a realization of the actual facts. We can not thrust our good offices upon them. The situation must be given a little more time to work itself out

in the new circumstances; and I believe that only a little while will be necessary. For the circumstances are new. The rejection of our friendship makes them new and will inevitably bring its own alterations in the whole aspect of affairs. The actual situation of the authorities at Mexico City will presently be revealed.

Meanwhile, what is it our duty to do? Clearly, everything that we do must be rooted in patience and done with calm and disinterested deliberation. Impatience on our part would be childish, and would be fraught with every risk of wrong and folly. We can afford to exercise the self-restraint of a really great nation which realizes its own strength and scorns to misuse it. It was our duty to offer our active assistance. It is now our duty to show what true neutrality will do to enable the people of Mexico to set their affairs in order again and wait for a further opportunity to offer our friendly counsels. The door is not closed against the resumption, either upon the initiative of Mexico or upon our own, of the effort to bring order out of the confusion by friendly coöperative action, should fortunate occasion offer.

While we wait the contest of the rival forces will undoubtedly for a little while be sharper than ever, just because it will be plain that an end must be made of the existing situation, and that very promptly; and with the increased activity of the contending factions will come, it is to be feared, increased danger to the noncombatants in Mexico as well as to those actually in the field of battle. The position of outsiders is always particularly trying and full of hazard where there is civil strife and a whole country is upset. We should earnestly urge all Americans to leave Mexico at once, and should assist them to get away in every way possible—not because we would mean to slacken in the least our efforts to safeguard their lives and their interests, but because it is imperative that they should take no unnecessary risks when it is physically possible for them to leave the country. We should let every one who assumes to exercise authority in any part of Mexico know in the most unequivocal way that we shall vigilantly watch the fortunes of those Americans who can not get away, and shall hold those responsible for their sufferings and losses to a definite reckoning. That can be and will be made plain beyond the possibility of a misunderstanding.

For the rest, I deem it my duty to exercise the authority conferred upon me by the law of March 14, 1912, to see to it that neither side to the struggle now going on in Mexico receive any assistance from this side the border. I shall follow the best practice of nations in the matter

of neutrality by forbidding the exportation of arms or munitions of war of any kind from the United States to any part of the Republic of Mexico—a policy suggested by several interesting precedents and certainly dictated by many manifest considerations of practical expediency. We can not in the circumstances be the partisans of either party to the contest that now distracts Mexico, or constitute ourselves the virtual umpire between them.

I am happy to say that several of the great Governments of the world have given this Government their generous moral support in urging upon the provisional authorities at the City of Mexico the acceptance of our proffered good offices in the spirit in which they were made. We have not acted in this matter under the ordinary principles of international obligation. All the world expects us in such circumstances to act as Mexico's nearest friend and intimate adviser. This is our immemorial relation towards her. There is nowhere any serious question that we have the moral right in the case or that we are acting in the interest of a fair settlement and of good government, not for the promotion of some selfish interest of our own. If further motive were necessary than our own good will towards a sister Republic and our own deep concern to see peace and order prevail in Central America, this consent of mankind to what we are attempting, this attitude of the great nations of the world towards what we may attempt in dealing with this distressed people at our doors, should make us feel the more solemnly bound to go to the utmost length of patience and forbearance in this painful and anxious business. The steady pressure of moral force will before many days break the barriers of pride and prejudice down, and we shall triumph as Mexico's friends sooner than we could triumph as her enemies—and how much more handsomely, with how much higher and finer satisfactions of conscience and of honor!

REPLY OF THE SECRETARY FOR FOREIGN AFFAIRS OF MEXICO TO PROPOSALS
OF THE AMERICAN GOVERNMENT CONVEYED THROUGH HON. JOHN LIND ¹

MEXICO, *August 16, 1913.*

SIR: On the 6th instant, pursuant to telegraphic instructions from his Government, the chargé d'affaires ad interim of the United States of America verbally informed Mr. Manuel Garza Aldape, then in charge

¹ Pamphlet printed by the Department of State at Washington.

of the department of foreign affairs, of your expected arrival in this Republic with a mission of peace. As fortunately neither then nor to-day has there existed a state of war between the United States of America and the United Mexican States, my Government was very much surprised to learn that your mission near us should be referred to as one of peace. This brought forth the essential condition which my Government ventured to demand in its unnumbered note of the 6th instant addressed to the aforesaid chargé d'affaires—"that if you do not see fit to properly establish your official character" your sojourn could not be pleasing to us according to the meaning which diplomatic usage gives to this word.

Fortunately, from the first interview I had the pleasure to have with you, your character as confidential agent of your Government was fully established, inasmuch as the letter you had the kindness to show me, though impersonally addressed, was signed by the President of the United States, for whom we entertain the highest respect.

It is not essential at this time, Mr. Confidential Agent, that I should recall the whole of our first conversation. I will say, however, that I found you to be a well-informed man and animated by the sincerest wishes that the unfortunate tension of the present relations between your Government and mine should reach a prompt and satisfactory solution.

During our second interview, which, like the first one of the 14th instant, was held at my private,² you saw fit, after all intent, honest and frank exchange of opinion concerning the attitudes of our respective Governments which did not lead us to any decision, to deliver to me the note containing the instructions, also signed by the President of the United States. Duly authorized by the President of the Republic, pursuant to the unanimous approval of the Cabinet, which was convened for the purpose, I have the honor to make a detailed reply to such instructions.

The Government of Mexico has paid due attention to the advice and considerations expressed by the Government of the United States; has done this on account of three principal reasons: First, because, as stated before, Mexico entertains the highest respect for the personality of His Excellency Woodrow Wilson; second, because certain European and American Governments, with which Mexico cultivates the closest relations of international amity, having in a most delicate, respectful way,

²Omission.

highly gratifying to us, made use of their good offices to the end that Mexico should accord you a hearing, inasmuch as you were the bearer of a private mission from the President of the United States; and, third, because Mexico was anxious, not so much to justify its attitude before the inhabitants of the Republic in the present emergency, the great majority of whom and by means of imposing and orderly manifestations, have signified their adhesion and approval, as to demonstrate in every way the justice of its cause.

The imputation contained in the first paragraph of your instructions that no progress has been made toward establishing in the capital of Mexico a Government that may enjoy the respect and obedience of the Mexican people is unfounded. In contradiction with their gross imputation, which is not supported by any proofs, principally because there are none, it affords me pleasure to refer, Mr. Confidential Agent, to the following facts which abound in evidence and which to a certain extent must be known to you by direct observation. The Mexican Republic, Mr. Confidential Agent, is formed by 27 States, 3 Territories, and 1 Federal District, in which the supreme power of the Republic has its seat. Of these 27 States, 18 of them, the 3 Territories, and the Federal District (making a total of 22 political entities) are under the absolute control of the present Government, which, aside from the above, exercises its authority over almost every port in the Republic and consequently over the customhouses therein established. Its southern frontier is open and at peace. Moreover, my Government has an army of 80,000 men in the field with no other purpose than to insure complete peace in the Republic, the only national aspiration and solemn promise of the present provisional President. The above is sufficient to exclude any doubt that my Government is worthy of the respect and obedience of the Mexican people, because the latter's consideration has been gained at the cost of the greatest sacrifice and in spite of the most evil influences.

My Government fails to understand what the Government of the United States of America means by saying that it does not find itself in the same case with reference to the other nations of the earth concerning what is happening and is likely to happen in Mexico. The conditions of Mexico at the present time are unfortunately neither doubtful nor secret; it is afflicted with an internal strife which has been raging almost three years, and which I can only classify in these lines as a fundamental mistake. With reference to what might happen in Mexico neither you, Mr. Confidential Agent, nor I nor anyone else can prognosticate,

because no assertion is possible on incidents which have not occurred. On the other hand, my Government greatly appreciates the good offices tendered to it by the Government of the United States of America in the present circumstances; it recognizes that they are inspired by the noble desire to act as a friend as well as by the wishes of all the other Governments which expect the United States to act as Mexico's nearest friend. But if such good offices are to be of the character of those now tendered to us we should have to decline them in the most categorical and definite manner.

Inasmuch as the Government of the United States is willing to act in the most disinterested friendship, it will be difficult for it to find a more propitious opportunity than the following: If it should only watch that no material and monetary assistance is given to rebels who find refuge, conspire, and provide themselves with arms and food on the other side of the border; if it should demand from its minor and local authorities the strictest observance of the neutrality laws, I assure you, Mr. Confidential Agent, that the complete pacification of this Republic would be accomplished within a relatively short time.

I intentionally abstain from replying to the allusion that it is the purpose of the United States of America to show the greatest respect for the sovereignty and independence of Mexico, because, Mr. Confidential Agent, there are matters which not even from the standpoint of the idea itself could be given an answer in writing.

His Excellency, Mr. Wilson, is laboring under a serious delusion when he declares that the present situation of Mexico is incompatible with the compliance of her international obligations, with the development of its own civilization, and with the required maintenance of certain political and economical conditions tolerable in Central America. Strongly backing that there is a mistake, because to this date no charge has been made by any foreign Government accusing us of the above lack of compliance, we are punctually meeting all of our credits; we are still maintaining diplomatic missions cordially accepted in almost all the countries of the world, and we continue to be invited to all kinds of international congresses and conferences. With regard to our interior development, the following proof is sufficient, to wit, a contract has just been signed with Belgian capitalists which means to Mexico the construction of something like 5,000 kilometers of railway. In conclusion, we fail to see the evil results, which are prejudicial only to ourselves, felt in Central America by our present domestic war. In one

thing I do agree with you, Mr. Confidential Agent, and it is that the whole of America is clamoring for a prompt solution of our disturbances, this being a very natural sentiment if it is borne in mind that a country which was prosperous only yesterday has been suddenly caused to suffer a great internal misfortune.

Consequently Mexico can not for one moment take into consideration the four conditions which His Excellency Mr. Wilson has been pleased to propose through your honorable and worthy channel. I must give you the reasons for it: An immediate suspension of the struggle in Mexico, a definite armistice "solemnly constructed and scrupulously observed" is not possible, as to do this it would be necessary that there should be some one capable of proposing it without causing a profound offense to civilization, to the many bandits who, under this or that pretext, are marauding toward the south and committing the most outrageous depredations; and I know of no country in the world, the United States included, which may have ever dared to enter into agreement or to propose an armistice to individuals who, perhaps on account of a physiological accident, can be found all over the world beyond the pale of the divine and human laws. Bandits, Mr. Confidential Agent, are not admitted to armistice; the first action against them is one of correction, and when this, unfortunately, fails their lives must be severed for the sake of the biological and fundamental principle then the useful sprouts should grow and fructify.

With reference to the rebels who style themselves "Constitutionalists," one of the representatives of whom has been given an ear by Members of the United States Senate, what could there be more gratifying to us than if convinced of the precipice to which we are being dragged by the resentment of their defeat, in a moment of reaction they would depose their rancor and add their strength to ours, so that all together we would undertake the great and urgent task of national reconstruction? Unfortunately they do not avail themselves of the amnesty law enacted by the provisional government immediately after its inauguration, but on the contrary, well-known rebels holding elective positions in the capital of the Republic or profitable employments, left the country without molestation, notwithstanding the information which the Government had that they were going to foreign lands to work against its interests, many of whom have taken upon themselves the unfortunate task of exposing the mysteries and infirmities from which we are suffering, the same as any other human congregations.

Were we to agree with them to the armistice suggested, they would, *ipso facto*, recognize their belligerency, and this is something which can not be done for many reasons which can not escape the perspicacity of the Government of the United States of America, which to this day, and publicly, at least, has classed them as rebels just the same as we have. And it is an accepted doctrine that no armistice can be concerted with rebels.

The assurance asked of my Government that it should promptly convene to free elections is the most evident proof and the most unequivocal concession that the Government of the United States considers it legally and solidly constituted and that it is exercising, like all those of its class, acts of such importance as to indicate the perfect civil operation of a sovereign nation. Inasmuch as our laws already provide such assurance, there is no fear that the latter may not be observed during the coming elections, and while the present Government is of a provisional character it will cede its place to the definite Government which may be elected by the people.

The request that Gen. Victoriano Huerta should agree not to appear as a candidate for the Presidency of the Republic in the coming elections can not be taken into consideration, because, aside from its strange and unwarranted character, there is a risk that the same might be interpreted as a matter of personal dislike. This point can only be decided by Mexican public opinion when it may be expressed at the polls.

The pledge that all parties should agree beforehand to the results of the election and to coöperate in the most loyal manner to support and organize the new administration is something to be tacitly supposed and desired, and that the experience of what this internal strife means to us in loss of life and the destruction of property will cause all contending political factions to abide by the results; but it would be extemporaneous to make any assertion in this respect, even by the most experienced countries in civil matters, inasmuch as no one can forecast or foresee the errors and excesses which men are likely to commit, especially under the influence of political passion. We hasten to signify our appreciation to the United States of America because they agree from to-day to recognize and aid the future which we, the Mexican people, may elect to rule our destinies. On the other hand, we greatly deplore the present tension in our relations with your country, a tension which has been produced without Mexico having afforded the slightest cause therefor.

The legality of the government of Gen. Huerta can not be disputed. Article 85 of our political constitution provides:

If at the beginning of a constitutional term neither the President nor the Vice President elected present themselves, or if the election had not been held and the results thereof declared by the 1st of December, nevertheless, the President whose term has expired will cease in his functions, and the secretary for foreign affairs shall immediately take charge of the Executive power in the capacity of provisional President; and if there should be no secretary for foreign affairs, or if he should be incapacitated, the Presidency shall devolve on one of the other secretaries pursuant to the order provided by the law establishing their number. The same procedure shall be followed when, in the case of the absolute or temporary absence of the President the Vice President fails to appear, when on leave of absence from his post if he should be discharging his duties, and when in the course of his term the absolute absence of both functionaries should occur.

Now, then, the facts which occurred are the following: The resignation of Francisco I. Madero, constitutional President, and Jose Maria Pino Suarez, constitutional Vice President of the Republic. These resignations having been accepted, Pedro Lascurain, minister for foreign affairs, took charge by operation of law of the vacant executive power, appointing, as he had the power to do, Gen. Victoriano Huerta to the post of minister of the interior. As Mr. Lascurain soon afterwards resigned, and as his resignation was immediately accepted by Congress, Gen. Victoriano Huerta took charge of the executive power, also by operation of law, with the provisional character and under the constitutional promise already complied with to issue a call for special elections. As will be seen, the point of issue is exclusively one of constitutional law in which no foreign nation, no matter how powerful and respectable it may be, should mediate in the least.

Moreover, my Government considers that at the present time the recognition of the Government of Gen. Huerta by that of the United States of America is not concerned, inasmuch as facts which exist on their own account are not and can not be susceptible of recognition. The only thing which is being discussed is a suspension of relations as abnormal and without reason; abnormal, because the ambassador of the United States of America, in his high diplomatic investiture and appearing as dean of the foreign diplomatic corps accredited to the Government of the Republic, congratulated Gen. Huerta upon his elevation to the Presidency, continued to correspond with this department by means of diplomatic notes, and on his departure left the first

secretary of the embassy of the United States of America as chargé d'affaires ad interim, and the latter continues here in the free exercise of his functions; and without reason, because, I repeat, we have not given the slightest pretext.

The confidential agent may believe that solely because of the sincere esteem in which the people and the Government of the United States of America are held by the people and Government of Mexico, and because of the consideration which it has for all friendly nations (and especially in this case for those which have offered their good offices), my Government consented to take into consideration, and to answer as briefly as the matter permits, the representations of which you are the bearer. Otherwise, it would have rejected them immediately because of their humiliating and unusual character, hardly admissible even in a treaty of peace after a victory, inasmuch as in a like case any nation which in the least respects itself would do likewise. It is because my Government has confidence in that when the justice of its cause is reconsidered with serenity and from a lofty point of view by the present President of the United States of America, whose sense of morality and uprightness are beyond question, that he will withdraw from his attitude and will contribute to the renewal of still firmer bases for the relations of sincere friendship and good understanding forcibly imposed upon us throughout the centuries by our geographical nearness, something which neither of us can change, even though we would so desire, by our mutual interests and by our share of activity in the common sense of prosperity, welfare, and culture, in regard to which we are pleased to acknowledge that you are enviably ahead of us.

With reference to the final part of the instructions of President Wilson, which I beg to include herewith and which say, "If Mexico can suggest any better way in which to show our friendship, serve the people of Mexico, and meet our international obligations, we are more than willing to consider the suggestion," that final part causes me to propose the following equally decorous arrangement: One, that our ambassador be received in Washington; two, that the United States of America send us a new ambassador, without previous conditions.

And all this threatening and distressing situation will have reached a happy conclusion; mention will not be made of the causes which might carry us, if the tension persists, to no one knows what incalculable extremities for two peoples who have the unavoidable obligation to continue being friends, provided, of course, that this friendship is based

upon mutual respect, which is indispensable between two sovereign entities wholly equal before law and justice.

In conclusion, permit me, Mr. Confidential Agent, to reiterate to you the assurances of my perfect consideration.

F. GAMBOA,
Secretary for Foreign Affairs of the Republic.

DECLARATION EFFECTED BY EXCHANGE OF NOTES BETWEEN UNITED STATES AND PANAMA PERMITTING CONSULS TO TAKE NOTE IN PERSON OR BY AUTHORIZED REPRESENTATIVES, OF DECLARATIONS OF VALUES OF EXPORTS MADE BY SHIPPERS BEFORE CUSTOMS OFFICERS ¹

Signed at Washington, April 17, 1913

The undersigned, W. J. BRYAN, Secretary of State of the United States of America, duly authorized thereto, in virtue of a reciprocal Declaration made by J. E. Lefèvre, Chargé d'Affaires of the Republic of Panama at Washington, does hereby declare that from and after June 1, 1913, and until the expiration of one month after the date on which either the United States of America or the Republic of Panama shall give notice of the withdrawal of said Declaration, the consuls of the Republic of Panama in the United States of America shall be permitted to take note in person, or through their authorized representatives, of the declaration made by shippers before the American customs officers in which they state the value of the merchandise exported to the Republic of Panama. The consuls of the Republic of Panama shall be given certified copies of the said declarations when requested by them.

W. J. BRYAN,
Secretary of State of the United States.

WASHINGTON, April 17, 1913.

The undersigned, J. E. LEFÈVRE, Chargé d'Affaires of the Republic of Panama at Washington, duly authorized thereto, in virtue of a reciprocal Declaration made by W. J. BRYAN, Secretary of State of the

¹ U. S. Treaty Series, No. 578.

United States of America, does hereby declare that from and after June 1, 1913, and until the expiration of one month after the date on which either the Republic of Panama or the United States of America shall give notice of the withdrawal of said Declaration, the consuls of the United States of America in the Republic of Panama shall be permitted to take note in person, or through their authorized representatives, of the declaration made by shippers before the customs officers of the Republic of Panama in which they state the value of the merchandise exported to the United States of America. The consuls of the United States of America shall be given certified copies of the said declarations when requested by them.

[SEAL.]

J. E. LEFÈVRE,

Chargé d'Affaires of the Republic of Panama.

WASHINGTON, April 17, 1913.



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